

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE

RICHARD SLUSHER, D.O.,)
)
 Plaintiff,)
)
vs.) Civil Action No.:
) 4:12-CV-00060
)
SHELBYVILLE HOSPITAL)
CORPORATION d/b/a HERITAGE)
MEDICAL CENTER AND DAN)
BUCKNER, Individually,)
)
 Defendants.)
)

Deposition of:

DANIEL ANDREW BUCKNER

Taken on behalf of the Plaintiff

March 24th, 2014

CASSANDRA M. BEILING, CCR, LCR# 371
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Also Present:

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Rob Thorne, HR Director
Heritage Medical Center

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1 The deposition of DANIEL ANDREW BUCKNER
2 was taken by counsel for the Plaintiff, pursuant
3 to notice, at the offices of Bradley, Arant,
4 Boult, Cummings, LLP, 1600 Division Street,
5 Nashville, Tennessee, on March 24th, 2014, for all
6 purposes under the Federal Rules of Civil
7 Procedure.

8
9 It is agreed that Cassandra M. Beiling,
10 being a licensed court reporter in the state of
11 Tennessee, may swear the witness, and that the
12 reading and signing of the completed deposition by
13 the witness are not waived.

14

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17 * * *

18

19 DANIEL ANDREW BUCKNER
20 was called as a witness, and after having been
21 first duly sworn, testified as follows:

22

23

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25

1 * * * * *

2 DIRECT EXAMINATION

3 QUESTIONS BY MS. RHODE:

4 Q. State your full name for the record,
5 please. 09:33

6 A. Daniel Andrew Buckner.

7 Q. Mr. Buckner, where do you currently
8 reside?

9 A. 202 High Street, Bell Buckle, Tennessee.

10 Q. And how are you currently employed? 09:33

11 A. I am a farmer and a medical consultant.

12 Q. And for whom are you a medical
13 consultant at this time?

14 A. I have a practice that I consult with in
15 Tullahoma, Tennessee. 09:33

16 Q. What kind of practice?

17 A. Family practice.

18 Q. And what kind of consulting -- I won't
19 ask you about any specifics --

20 A. Yeah, that's okay. 09:33

21 Q. -- of this, but what kind of consulting
22 do you do for them?

23 A. I help them learn about their billing
24 processes, learn about how to engage in their
25 coding process, efficient staffing, kind of 09:34

1 whatever they ask.

09:34

2 Q. Okay. Before we go on, have you ever
3 been deposed before?

4 A. No, I haven't.

5 Q. Gone through this process?

09:34

6 A. No.

7 Q. Okay. And you sat in when Dr. Slusher
8 was deposed.

9 A. Right.

10 Q. All right. Let me just give you the
11 same kind of basic overview of the rules.

09:34

12 A. Okay.

13 Q. I'm just going to ask you some
14 questions. If at any point my question is not
15 clear, please just tell me. I'll be happy to
16 rephrase it.

09:34

17 A. Okay.

18 Q. Because if you answer the question, I'm
19 going to assume that you understood it; is that
20 fair?

09:34

21 A. That's fair.

22 Q. Okay. And I'll ask you to keep your
23 answers verbal, just as you've been doing --

24 A. Okay.

25 Q. -- to make it easy for the court

09:34

1 reporter. And if you'll let me finish my
2 question, I'll give you whatever time you want to
3 respond. If we talk over each other, it makes it
4 difficult for the court reporter.

09:34

5 A. Sure.

09:34

6 Q. Okay?

7 A. Okay.

8 Q. Great. Thank you. What's your date of
9 birth, Mr. Buckner?

10 A. April 4th, 1960.

09:34

11 Q. Happy almost birthday.

12 A. Yeah.

13 Q. And could you give me your educational
14 background, please. Start from college.

15 A. From college? Okay.

09:35

16 Q. Yeah. Where you went, degrees and
17 years, please.

18 A. I've got a bachelor's degree from the
19 University of the South in Sewanee, Tennessee.

20 Q. Okay.

09:35

21 A. And I've got a master's degree from
22 Georgia State University.

23 Q. In Atlanta?

24 A. In Atlanta. Master's in counseling,
25 counseling and psychology.

09:35

2 **A.** Counseling and psychology. Is that what
3 you're asking?

09:35

09:35

09:35

09:36

09:36

1 master's program?

09:36

2 A. No. There's several years in between.

3 Q. Okay. What did you -- what kind of work

4 did you do between 1982 and the time you began

5 your master's?

09:36

6 A. The majority of the time I was a

7 counselor for adolescents and a program-director

8 type -- program-administrator type for psychiatric

9 hospitals.

10 Q. Where?

09:36

11 A. Frank Luton Mental Health Center,

12 Nashville, Tennessee, and Anneewakee, which is now

13 called Inner Harbour, in Douglasville, Georgia.

14 Q. Okay. Where are you originally from?

15 A. I'm originally from New Mexico. Born in

09:36

16 Carlsbad, lived in Arizona for awhile. My

17 formative years, though, in Murfreesboro,

18 Tennessee.

19 Q. After you got your master's degree,

20 could you give me your employment history from

09:37

21 then to today, where you worked, the years if you

22 can recall --

23 A. Yeah. I can give it to you very

24 loosely.

25 Q. Fair enough.

09:37

1 **A.** Let's see. After my master's degree, I 09:37

2 would have -- I got my master's while I was at
3 Anneewakee, so I continued working there with my
4 master's. Then I went to Bradenton, Florida, to
5 be a program administrator for a psychiatric 09:37
6 hospital that was owned by either PIA or Charter
7 at the time. Both companies are defunct now.

8 I went from there to a hospital named
9 Kingwood Psychiatric Hospital in Michigan City,
10 Indiana, as a program administrator. 09:37

11 I went from Kingwood to Ocala, Florida,
12 Charter Hospital, Charter Psychiatric Hospital, as
13 the clinical director, and ended up there as the
14 COO.

15 I went from there to a hospital named 09:38
16 Charlotte Regional Medical Center that had a
17 behavioral unit attached called Riverside. And it
18 was that 60-bed geriatric psych facility which I
19 ran as the CEO.

20 I went from there -- this is all in the 09:38
21 same company. I worked for a company called HMA.

22 **Q.** Okay.

23 **A.** I went from there to Haines City,
24 Florida, a med/surg hospital. That's where I
25 first broke away from the psychiatric world and 09:38

1 went into the med/surg world. I was a CEO there. 09:38

2 I went from CEO -- what did I just say?

3 What town am I in now?

4 MR. LONERGAN: Haines City.

5 THE WITNESS: Haines City? 09:38

6 BY MS. RHODE:

7 Q. Haines City.

8 A. Haines City, okay. I was the COO at
9 Haines City. And then I went to Hamlet, North
10 Carolina, as a CEO of the med/surg hospital, 09:38
11 Sandhills Regional Medical Center.

12 I went from there to Lehigh Acres,
13 Florida, as a CEO for a med/surg hospital. Same
14 company all this time.

15 I went from there as CEO to Charlotte 09:39
16 Regional Medical Center, which was a med/surg open
17 heart -- medical/surgical hospital.

18 I went from there to Cleveland,
19 Tennessee, as a COO at SkyRidge Medical Center.
20 That's a change in companies. I went from HMA to 09:39
21 CHS, Community Health Systems --

22 Q. Was that your first --

23 A. -- in Chattanooga.

24 Q. I'm sorry.

25 A. It was, yeah. And then went from there 09:39

1 to the hospital here in Shelbyville -- or there in
2 Shelbyville where I was CEO for five years. I
3 retired from there a year ago. Dates, I just
4 would be guessing. I don't know.

09:39

5 Q. No. That's okay. Can you recall the
6 date of your retirement from Shelbyville?

09:39

7 A. It was January a year ago, so January of
8 '13, I guess.

9 Q. In what city is Lehigh Acres, the
10 med/surg hospital?

09:40

11 A. Lehigh Acres is close to Fort Myers.
12 It's a city that's close to Fort Myers, Florida.

13 Q. Is that the name of the city, is Lehigh
14 Acres?

15 A. It's called Lehigh Acres.

09:40

16 Q. Were you in the hospital in Punta Gorda
17 at any time?

18 A. Yeah. That's the hospital that was the
19 med/surg hospital. Did I not say that?

20 Q. I don't remember you mentioning Punta
21 Gorda.

09:40

22 A. Okay.

23 Q. That's --

24 A. Yeah, Punta Gorda. Punta Gorda --

25 Q. Is that a different hospital than Lehigh

09:40

1 Acres?

09:40

2 A. It is.

3 Q. Okay. Was that before or after --

4 A. That was after. That was one hospital

5 after Lehigh Acres. It was a 300-bed med/surg,

09:40

6 open heart hospital. It's the same hospital that

7 I was the psychiatric administrator for at one

8 point, and I circled back to it as med/surg

9 administrator years later.

10 Q. Okay. From the time you were in

09:40

11 Cleveland, Tennessee, until your retirement, were

12 you always with CHS hospitals?

13 A. Yes.

14 Q. Were you ever in the military --

15 A. No.

09:40

16 Q. -- Mr. Buckner?

17 A. I wish I had been.

18 Q. Why is that?

19 A. I think it is a good way to live,

20 teaches a good, organized mind.

09:41

21 Q. Let me ask you about your departure from

22 Shelbyville.

23 A. Okay.

24 Q. Tell me the circumstances that led to

25 your separation from Shelbyville.

09:41

09:41

09:41

09:42

09:42

09:42

1 this is the part of the country that I was trying 09:42
2 to migrate back to regardless. So it was a good
3 location for me. It was a good hospital. It had
4 good staff -- has good staff, has good doctors.

5 Q. Is that Murphy -- the town I live in, in 09:42
6 Illinois, is Murphysboro, and so you're talking
7 about Murfreesboro --

8 A. Murfreesboro, right.

9 Q. -- Tennessee?

10 A. Yeah. It's -- from Shelbyville -- 09:42

11 Q. You may not pronounce it that way down
12 here, but I just want to make sure we're in the
13 same place.

14 A. From Shelbyville, it's 20 miles away.

15 Q. Okay. So who initiated any -- strike 09:42
16 that.

17 Was it ever suggested to you that it was
18 time for you to move on to another turnaround by
19 anybody with CHS or the hospital?

20 A. No. 09:43

21 Q. Did you initiate the discussions for
22 your departure?

23 A. Yes.

24 Q. And what, if anything, were the terms of
25 your departure? I mean -- by that I mean were you 09:43

1 going to be brought back as a consultant? Did you 09:43
2 have a contract after you retired? Or did you
3 just submit a resignation?

4 A. Submitted a resignation. It was a
5 30-day resignation, but I gave the -- told the 09:43
6 company I would stay on for as long as six months
7 if they needed me to, to be able to find somebody
8 else and be as helpful as I could be.

9 Q. Okay.

10 A. They elected to make that -- I think it 09:43
11 turned into, like, a 60- or a 90-day resignation.

12 Q. And the effective date of your
13 resignation, then, was in January of 2013?

14 A. My last paycheck was in January, right,
15 of 2013. 09:43

16 Q. Okay. Have you done any work for any
17 CHS -- for CHS or any of its facilities since your
18 resignation in January of 2013?

19 A. The only work I've done for them is to
20 represent them for this lawsuit. Not paid work 09:44
21 but --

22 Q. No consulting?

23 A. -- whatever you call this. No, not for
24 them.

25 THE WITNESS: Am I speaking 09:44

1 clearly enough for you? 09:44

2 THE REPORTER: You're fine.

3 Thank you.

4 MS. RHODE: And I'll do this

5 (indicating) if she needs you to slow down. 09:44

6 THE WITNESS: Okay. All

7 right. Thank you.

8 BY MS. RHODE:

9 Q. I'm going to hand you some exhibits.

10 And whenever I hand you something, please take 09:44

11 whatever time you want to look at it.

12 A. Okay.

13 Q. And in some cases, like, for what I'm

14 about to hand you now, I just want you to look at

15 it and tell me if that looks to be the correct 09:44

16 document. I'm not going to get into any specifics

17 about this particular -- so I'm going to hand you

18 what I am marking as Exhibit 1 --

19 (Whereupon, Exhibit Number 1 was

20 marked for identification.) 09:45

21 MR. LONERGAN: Thank you,

22 Shari.

23 MS. RHODE: You're welcome.

24 BY MS. RHODE:

25 Q. -- and ask you if that is your resume or 09:45

1 a resume.

09:45

2 A. It is a resume, and it appears to be
3 mine.

4 Q. Okay. And I don't know who made the
5 little sticker over it, but this appears to take
6 us to 2007?

09:45

7 A. Yes, it does.

8 Q. But if you'll take just a moment, does
9 it appear, to the best of your knowledge, true and
10 correct as of that date?

09:45

11 A. Not being able to read beyond the sticky
12 note that was printed here, it appears that it
13 would be correct.

14 Q. Do you have a more current resume,
15 Mr. Buckner?

09:46

16 A. I may, but I'm not sure.

17 Q. Okay.

18 (Whereupon, Exhibit Number 2 was
19 marked for identification.)

20 BY MS. RHODE:

09:46

21 Q. I'm going to hand you what I've marked
22 as Exhibit 2.

23 MR. LONERGAN: You can just
24 put that down.

25 THE WITNESS: Okay.

09:46

1 MS. RHODE: I'll leave that 09:46
2 stack in front of you.

3 THE WITNESS: Okay.

4 MS. RHODE: Mr. Thorne, do you
5 need a set? 09:46

6 MR. THORNE: No, thank you.

7 BY MS. RHODE:

8 Q. I'm handing you what I've marked as
9 Exhibit 2. Is that the resignation that you
10 submitted from your position at Shelbyville? 09:46

11 A. It is.

12 Q. Mr. Buckner, tell me the organizational
13 structure of Shelbyville when you were just at the
14 point of your resignation or during your tenure as
15 CEO, if it's different, in terms of to whom you 09:46
16 reported.

17 A. Okay. I reported to Neal Heatherley
18 directly.

19 Q. I'm sorry?

20 A. I was the CEO of the hospital. I 09:47
21 reported to the vice president of operations.
22 There are several vice presidents of operations,
23 but the gentleman I reported to was Neal, N-E-A-L,
24 Heatherley.

25 Q. What's the last name? I'm sorry. 09:47

09:47

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EXHIBIT A

EXHIBIT A

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EXHIBIT A

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EXHIBIT A

EXHIBIT A

1 recruitment of physicians, to help in the 09:49
2 communication with physicians, and to oversee the
3 individual practices of our employed physicians.

4 Q. Did she have any role in recruiting
5 doctors? 09:50

6 A. Her role was to assist me in that
7 regard.

8 Q. Okay. Did she have any role in the
9 contracting process for a physician that you
10 recruited? 09:50

11 A. She would have a double role there. One
12 role would be working with me on those contracts
13 as well as being the go-between between our
14 recruiters and contract writers, et cetera, that
15 worked out of the corporate headquarters. 09:50

16 Q. Contract writers?

17 A. Writers.

18 Q. Okay. And when you say "contract
19 writers," what do you mean?

20 A. That's the legal team that is expert in 09:50
21 handling contracts.

22 Q. Okay. And that's handled out of CHS
23 corporate?

24 A. Correct.

25 Q. Okay. And although specific terms like 09:50

1 salaries or maybe amounts of vacation or benefits 09:50

2 may be different from physician to physician, was

3 there during the time that you were CEO a standard

4 type of contract that CHS prepared for the

5 physicians that were hired for Shelbyville? 09:51

6 A. There was a platform contract that you

7 would begin with --

8 Q. Okay.

9 A. -- but could be modified, sometimes

10 substantially, sometimes not so substantially, 09:51

11 depending on the circumstances and the doctor.

12 Q. Okay. Tell me how Dr. Richard Slusher

13 was recruited, your understanding of how he was

14 recruited to come to work for HMC.

15 A. Okay. We had an orthoped at the 09:51

16 hospital named Dr. Elizondo, an orthopaedic

17 surgeon, orthoped, who left our hospital under

18 immediate circumstances.

19 Q. I'm sorry, immediate?

20 A. Who left under immediate circumstances. 09:51

21 Q. What does that mean?

22 A. That means he was there one day and gone

23 the next.

24 Q. Okay. And without getting in minute

25 detail, can you kind of explain why he was there 09:51

1 one day and gone the next? By his choice or the 09:51
2 hospital's choice?

3 A. By the hospital's choice.

4 Q. Okay. Fair enough. And could you spell 09:52
5 Elizondo for the court reporter, please.

6 A. E-L-I-Z-O-N-D-O.

7 Q. Okay. Go ahead. I'm sorry. He was --

8 A. So we contracted with a locums
9 company -- I believe it was Weatherby Locums -- to
10 fill those slots, as well as they contracted with 09:52
11 some local physicians -- local meaning Tullahoma,
12 which is 20 miles south of Shelbyville -- to help
13 us fill slots on an emergency nature while we
14 recruited for another orthopaedic surgeon.

15 In that period of time, we recruited, 09:52
16 over time, four or five people from Weatherby that
17 came in to do a month here or two weeks there or
18 whatnot. One of those people that we recruited
19 from Weatherby was Dr. Slusher that you mentioned.

20 Dr. Slusher worked for us for three 09:52
21 months, 90 days, as a locums. At a 90-day slot --
22 I think it's Medicare -- but at a 90-day slot,
23 Medicare stops paying for a locums. So I went to
24 Dr. Slusher and asked him if he would work for us
25 on a bridge basis until we found a new person, as 09:53

1 well as offered him the position -- or I guess I 09:53
2 didn't offer -- asked him if he would be
3 interested in taking the full-time position as an
4 orthopaedic surgeon at the hospital.

5 Q. Okay. Can I stop you for just a second? 09:53

6 A. Yeah.

7 Q. Could you explain the term "bridge
8 physician" for me.

9 A. Okay. A bridge physician would be a
10 physician -- 09:53

11 MR. LONERGAN: Position, not
12 physician.

13 MS. RHODE: I'm sorry?

14 MR. LONERGAN: Bridge
15 position. 09:53

16 BY MS. RHODE:

17 Q. I'm sorry. A bridge position.

18 A. Okay.

19 MS. RHODE: Thank you.

20 THE WITNESS: A bridge 09:53

21 position would be a person that for a length of
22 time -- in this particular case, a physician -- in
23 this particular case would bridge a potential
24 length of time while I continued to recruit for a
25 full-time person. 09:53

09:54

09:54

09:54

09:54

09:54

4 Q. Okay.

09:54

9 **A.** Okay.

09:54

12 **A.** Okay.

15 **A.** No. On a weekly basis, he was full
16 time.

09:55

17 **Q.** Okay. Got it. But just for a one-year
18 term period.

19 **A.** One year or less, right.

20 Q. Okay. Go ahead. I'm sorry. You were
21 talking about how he was recruited.

09:55

22 **A.** Right. So I asked him if he would come
23 in on a full-time basis. He had a family in
24 Pinehurst, Tennessee. Or maybe it was Southern
25 Pine, something relative to Pinehurst.

09:55

1 MR. LONERGAN: Not Tennessee. 09:55

2 Excuse me. North Carolina.

3 THE WITNESS: All right.

4 Thank you. North Carolina. Yeah.

5 MR. LONERGAN: If Pinehurst 09:55

6 was in Tennessee, I would be --

7 THE WITNESS: You would be on

8 a golf course right now. Yeah.

9 MS. RHODE: And I would not.

10 MR. LONERGAN: Sorry to 09:55

11 interrupt.

12 MS. RHODE: No. Feel free.

13 THE WITNESS: He had a wife

14 and family there in the Pinehurst area, as well as

15 had a job opportunity with a local orthoped, whose 09:55

16 name I don't recall, that had made him some kind

17 of practice offer. Whether it was official or

18 not, I don't know. And his intentions were to go

19 back to his wife and family, live in Pinehurst,

20 and start a practice up with that particular 09:55

21 doctor. So he was not interested in taking up my

22 offer on a full-time position. He was --

23 BY MS. RHODE:

24 Q. Let me --

25 A. Okay. 09:56

1 Q. Sorry for the interruption. But when
2 you said he wasn't interested in taking up your
3 offer of a full-time position, this was a
4 discussion you were having with him at the
5 beginning of his interactions with HMC?

09:56

09:56

6 A. At the beginning of his interactions
7 post-locums --

8 Q. Okay.

9 A. -- when we were moving him up to the new
10 position.

09:56

11 Q. Okay. Before the -- when you were
12 getting ready to have the one-year contract --

13 A. Right.

14 Q. -- you talked to him. And that was
15 probably in the early part of 2011?

09:56

16 A. Yes.

17 Q. Okay.

18 A. In addition to that I, I mean -- I'll
19 jump ahead in my story a little bit -- but I --

20 Q. Okay.

09:56

21 A. -- I asked Slusher, Dr. Slusher, a
22 number of times while I was in the recruitment
23 process, "Are you sure you're not interested?"
24 Because the community and the other physicians on
25 staff liked him. He was a good doctor. And it's

09:56

1 easier to recruit somebody that's in your hand 09:56
2 than it is somebody you don't know, right?

3 Q. Let me -- was there ever anything
4 problematic about Dr. Slusher's performance as an
5 orthopaedic surgeon from your perspective as CEO 09:57
6 at HMC during the time he worked for you?

7 A. Clinically, he was a perfectionist and a
8 very good surgeon.

9 Q. Okay. So we can eliminate any issues
10 about clinically, were there any other performance 09:57
11 or behavioral problems that you had with
12 Dr. Slusher during the period of time that he
13 worked for HMC?

14 A. Dr. Slusher has a very gregarious
15 personality and is very loud, and so there were a 09:57
16 few times that I -- I use the word "coached"
17 lightly -- but talked to him about those issues.
18 Which he was very -- he knew that about himself so
19 those weren't -- on a scale of 1 to 10, those
20 were, like, five issues, right? There was an 09:58
21 issue where his staff had complained of hostile
22 work environment through -- I believe that came
23 through Tisha to me.

24 I went to investigate that by talking
25 with each member, each staff member in his office. 09:58

1 They denied that they had said that to Tisha. And 09:58
2 I went to Dr. Slusher to make him aware that I had
3 investigated. There had been a complaint
4 supposedly. I had investigated it. There was
5 nothing to it from what I could tell. He told me 09:58
6 that -- and this is close to a quote. He said,
7 "All I told them last Friday was, 'You bitches
8 have a nice weekend.'"

9 I explained to him that calling the
10 staff "bitches" was inappropriate. It shouldn't 09:58
11 happen again. He was very frustrated that he
12 couldn't be on a friendly basis with the staff and
13 use, you know -- he thought words like that were
14 more of "We're buddies. See you on Monday."

15 But nonetheless, he -- I never had any 09:59
16 issues since then with him, and he never used that
17 language, and I never counted that as any hostile
18 work environment. That was just a mistake that a
19 physician used when he was talking to his staff
20 one time. 09:59

21 Q. Any other circumstances that led you to
22 investigate the behavior of Dr. Slusher while he
23 was employed by HMC?

24 A. I don't think so.

25 Q. You were talking about recruiting. 09:59

1 **A.** Okay.

09:59

2 **Q.** Go back to you had had discussions with
3 him. Now, get me to the point -- you get an
4 agreement for him to come to accept a bridge
5 position; is that correct?

09:59

6 **A.** Right.

7 **Q.** Okay. Tell me, was it just a discussion
8 between you and he, or were there other people
9 involved when you came to an agreement in
10 principle to have him accept a bridge position at
11 HMC?

09:59

12 **A.** There would be a number of people
13 involved. The main negotiations would be between
14 he and I.

15 **Q.** Okay.

10:00

16 **A.** But Tisha would be involved mainly as a
17 helpful memory component to me. I have an up-line
18 that I would go through on issues like that. Ed
19 Corn -- it's either Corn or Corns with an "S." I
20 don't recall.

10:00

21 THE WITNESS: Do you know?

22 MR. THORNE: It's Corn.

23 THE WITNESS: Okay. Sorry.

24 MS. RHODE: It's all right.

25 Your lawyer is going to smack you.

10:00

1 MR. LONERGAN: You can't get 10:00

2 outside help. Sorry about that.

3 MS. RHODE: You can't ask him.

4 THE WITNESS: Sorry about

5 that. My apologies. 10:00

6 MR. LONERGAN: It's not a

7 major issue for that question, but you have to go

8 on your memory the best you can.

9 MS. RHODE: Yeah. And if you

10 don't recall something that's perfectly fine. 10:00

11 THE WITNESS: Okay.

12 MS. RHODE: Okay.

13 BY MS. RHODE:

14 Q. But you --

15 A. Ed Corn is the director of physician 10:00

16 relations at the corporate office. And he would

17 be involved in approving and assisting with any

18 negotiations with a physician for a contract.

19 Q. Do you recall any specific involvement

20 that Mr. Corn had in the negotiation with 10:00

21 Dr. Slusher?

22 A. I suspect he probably would have had to

23 sign off on a final contract at a minimum.

24 Q. Okay. Let me change this. Who, to the

25 best of your recollection, had any actual verbal 10:01

1 discussions with Dr. Slusher, face to face or on 10:01
2 the phone?

3 A. All right. Myself, Tisha Rader, Sarah
4 Smith --

5 Q. And who is Ms. Smith? 10:01

6 A. Sarah Smith is a physician recruiter
7 that works for the corporate office.

8 Q. Okay. And what role did she have, if
9 you know?

10 A. She assists in the recruitment of any 10:01
11 physician that was going to be coming to my
12 hospital. She was my regions recruiter with the
13 company.

14 Q. Okay. Anyone else?

15 A. Those would have been the three 10:01
16 people -- my CFO.

17 Q. Who is that?

18 A. I don't know who it was at the time.

19 Q. Okay.

20 A. But they may have had a discussion with 10:01
21 him. But it would mainly be those three people.

22 Q. Okay. Tell me the process -- would you
23 agree with me that you were probably the primary
24 negotiator with Dr. Slusher?

25 A. Yes. 10:01

10:02

10:02

10:02

10:02

10:02

FIELD #

10:03

10:03

10:03

10:03

10:04

EXHIB.

1 Exhibit 3?

10:04

2 A. It is.

3 Q. And you signed this on February 2nd,
4 2011, correct?

5 A. I did.

10:04

6 Q. And this contract began February 2nd,
7 2011, is that correct, when it says "date of
8 agreement"?

9 A. It says on or before February 28th.

10 Q. Okay.

10:04

11 A. And my recollection is that it was
12 February 28th when he actually started, but I'm
13 not sure.

14 Q. Okay. And that's fine. And so the
15 one-year -- and this was a one-year term?

10:04

16 A. Correct.

17 Q. And so it would have gone until
18 February 28th of 2012, if you're correct about his
19 start date.

20 A. That's right.

10:04

21 Q. Okay. So let me ask you some things
22 about this contract. Was there some -- there was
23 some going back and forth between you and
24 Dr. Slusher when this contract was -- before this
25 contract was finally signed, correct?

10:04

1 **A.** I can only assume there was. 10:05

2 **Q.** Okay. And you signed on behalf of HMC?

3 **A.** I did.

4 **Q.** And that was -- and you had the
5 authority to do that because you were the CEO? 10:05

6 **A.** Correct. Now, there are two
7 corporations here.

8 **Q.** Okay.

9 **A.** There's the Shelbyville Hospital Corp.,
10 and there's a Shelbyville Clinic Corp. 10:05

11 **Q.** Okay. So tell me the difference.

12 **A.** The Shelbyville Clinic Corp, I am also
13 the president -- or I was also the president of,
14 and had the authority to sign on their behalf.

15 **Q.** Well, what was the Shelbyville Clinic 10:05
16 Corp. versus the Shelbyville Hospital?

17 **A.** Shelbyville Clinic Corp. was the
18 corporation that employed physicians. Shelbyville
19 Hospital Corporation ran a hospital and employed
20 everybody else related to hospitals. 10:05

21 **Q.** Okay. So what's the relationship
22 between Shelbyville Hospital Corporation and
23 Shelbyville Clinic Corp.?

24 **A.** The relationship is a dotted line, as
25 far as relationships go. We both work together 10:05

1 and hold hands. I'm the CEO of one and president
2 of the other. And doctors that are recruited
3 through the hospital that land over in the clinic
4 corp. are there to mutually benefit the community
5 and the hospital.

10:06

10:06

6 Q. So while you're holding hands, the same
7 employee policies, such as the leave policies,
8 apply to the doctors and everybody else in either
9 corporation?

10 A. That's correct.

10:06

11 Q. Okay. Now, if you'll look at the next
12 page, on page 2, it says "Standard Terms and
13 Conditions." This is kind of the one we were
14 talking about, the corporate attorneys. And I
15 don't want -- I'm not asking you about any
16 specific discussions, but they sort of have a
17 template that they'll start preparing, a contract.
18 Is that how you understand it?

10:06

19 A. Sure.

20 Q. And so how many physician employee
21 agreements, roughly, do you think that you
22 negotiated during your period as CEO at HMC?

10:06

23 A. Oh, I would say 50 to 70.

24 Q. Okay. And would you agree with me that
25 most of those physician employment agreements look

10:07

1 somewhat similar to the one that is Exhibit 3, in 10:07
2 terms of being a standard -- same basic format?

3 A. No, but yes. If I can explain that.

4 Q. Sure.

5 A. The templates changed throughout time, 10:07
6 right?

7 Q. Yes.

8 A. So at one year it might be one template;
9 the next year it might have changed a little bit,
10 or maybe it changed a lot. 10:07

11 Q. Okay.

12 A. But in general, the fact that we used a
13 template appears to be the same.

14 Q. And to the best of your recollection,
15 the physician employee agreements that you helped 10:07
16 negotiate would set out the basic term of the
17 contract?

18 A. Right.

19 Q. And then the representations and
20 warranties of the physician? 10:08

21 A. It would be in there somewhere on each
22 one, right.

23 Q. And some section that would deal with
24 the duties of the physician?

25 A. Correct. 10:08

4 **A.** Uh-huh. Yes.

9 **A.** If they were an employed position, it
0 would be the responsibility of the Clinic Corp. to 10:08
1 schedule the patients.

14 **A.** He was.

17 **A.** Right.

[illegible]

25 **A.** Did he... 10:09

1 Q. Were any patients scheduled to have 10:09

2 surgery --

3 A. You mean on day one, when he came back?

4 Q. No.

5 A. Okay. 10:09

6 Q. Would you agree with me that when

7 Dr. Slusher came back from being deployed in

8 Iraq --

9 A. Right.

10 Q. -- in October of 2011, he was there for 10:09

11 less than a month, correct?

12 A. There at the hospital.

13 Q. Yes, as an employed physician of the

14 hospital or the corporation.

15 A. When he came back from Iraq the first 10:09

16 time?

17 Q. The second time.

18 A. The second time.

19 Q. The last time.

20 A. The last time. Yes. He was -- oh, he 10:09

21 was there for less than a month after his return

22 from Iraq.

23 Q. Okay. And do you know if the hospital

24 scheduled any patients for him to perform surgery

25 on? 10:10

1 **A.** During that time period? 10:10

2 **Q.** During that time period?

3 **A.** I don't know, but I certainly -- I don't

4 know how they got scheduled, but yes, I'm aware

5 that he performed surgeries and they wouldn't be 10:10

6 done unless they were scheduled.

7 **Q.** And who would know what surgeries, if

8 any, were performed -- scheduled for and performed

9 by Dr. Slusher in October of 2011, after he

10 returned from Iraq, the second time? 10:10

11 **A.** The hospital would have to pull those

12 records.

13 **Q.** Is there a person or a physician that

14 you could direct me to who could pull that record,

15 those kinds of records? 10:10

16 **A.** When I was CEO there, I would have

17 directed you toward the operating room director.

18 I am unsure of how that procedure works now.

19 **Q.** Now, if you'll turn to page 6 of

20 Exhibit 3, please, sir. 10:11

21 **A.** Okay.

22 **Q.** In Compensation and Benefits --

23 **A.** Okay.

24 **Q.** -- look at that page along with the

25 cover sheet of Exhibit 3. Dr. Slusher had a base 10:11

1 salary of \$450,000 a year; is that right? 10:11

2 A. That's correct.

3 Q. He also had the ability to earn
4 additional coverage -- additional compensation,
5 and those specific details are set out on the 10:11
6 front page of Exhibit 3 under Additional
7 Compensation, correct?

8 A. Yes.

9 Q. So for each day of clinic coverage and
10 emergency department call provided Monday through 10:11
11 Friday, the physician shall receive a flat rate of
12 \$2,000 a day?

13 A. Correct.

14 Q. And for ED or the emergency department
15 call coverage provided on a Saturday or Sunday 10:12
16 beginning at 7:00 a.m. and ending at 7:00 a.m. the
17 following day, that being defined as a shift, he
18 got a flat rate of \$1,000 per shift, correct?

19 A. Correct.

20 Q. And that same language or similar 10:12
21 language setting out the basis for his additional
22 compensation is contained in paragraph 8.1(b); is
23 that right?

24 A. It appears to be the same.

25 Q. And in 8.2, the contract provides that 10:12

1 the physician shall receive employee benefits in 10:12
2 accordance with the applicable employer policies
3 and benefits program and as listed in the
4 Attachment A?

5 A. Exhibit A? 10:12

6 Q. Exhibit A, I'm sorry.

7 A. I don't think Exhibit A is here, but
8 I -- so I can't verify that for sure, but -- wait
9 a minute. It might be here. I see it.

10 Q. It's on page 12. 10:13

11 A. Yeah.

12 Q. Is that correct?

13 A. It is correct.

14 Q. Now if you'll turn to page 8 of
15 Exhibit 3. 10:13

16 A. Okay.

17 Q. You negotiated with Dr. Slusher in terms
18 of paragraph 10.4 that either he or the hospital
19 could give 90 days' notice and then this contract
20 would end. 10:13

21 A. Correct.

22 Q. And that could be with or without cause?

23 A. Correct.

24 (Whereupon, Exhibit Number 4 was
25 marked for identification.) 10:13

1 BY MS. RHODE: 10:14

2 Q. I'm going to hand you what's been marked
3 as Exhibit 4.

4 A. Okay.

5 Q. Are you familiar with Exhibit 4, 10:14
6 Mr. Buckner?

7 A. I am.

8 Q. And that is --

9 MR. LONERGAN: Can we verify
10 for the record we're talking about a few pages 10:14
11 from --

12 MS. RHODE: I'm sorry.

13 MR. LONERGAN: Okay.

14 MS. RHODE: Yes.

15 BY MS. RHODE: 10:14

16 Q. I am talking about a few pages. The
17 cover page of Exhibit 4 says Heritage Medical
18 Center Employee Handbook. And the next pages,
19 which are numbered 35 through 38, are just the
20 section on Employee Leaves. 10:15

21 A. That appears to be true.

22 Q. And to the best of your knowledge,
23 Mr. Buckner, is that the leave policy -- from the
24 Heritage Medical Center Employee Handbook, were
25 those the leave policies in place during the 10:15

1 period that Dr. Slusher was employed with HMC? 10:15

2 A. Knowing that our handbook changes from
3 time to time, it certainly appears to be what a
4 leave policy could have been. I just can't
5 guarantee it. 10:16

6 Q. Okay. And during the entire period of
7 time that you were employed as the CEO of HMC,
8 there was a policy concerning military leave, was
9 there not?

10 A. To my knowledge, yes. 10:16

11 Q. And were you aware, during the entire
12 period of time that you were employed as the CEO
13 of HMC, that federal law provided for certain
14 rights to individuals who had to give military
15 service during their employment with the hospital? 10:16

16 A. Yes.

17 Q. In fact, did you have a discussion with
18 Dr. Slusher before you finalized the contract with
19 him about his military service and possible
20 deployment? 10:16

21 A. I did. He made me aware there could be
22 a possibility. I was -- I always have been and
23 still am happy to hire military people.

24 Q. Okay.

25 A. So although I wouldn't -- hoped it 10:17

1 wouldn't happen for the hospital's sake, knew that 10:17
2 it could.

3 Q. And how many times was Dr. Slusher
4 deployed during his employment with HMC?

5 A. Oh, I think just the one time. 10:17

6 Q. I think you said the first time he came
7 back from Iraq or the second time he came back
8 from Iraq --

9 A. Well, the first time he came back from
10 Iraq -- he was in Iraq before he became a locums 10:17
11 with us --

12 Q. Okay.

13 A. -- and told those stories since I was
14 aware of that.

15 Q. Got it. 10:17

16 A. And then went back again.

17 Q. And how did you learn that Dr. Slusher
18 was being deployed back to what turned out to be
19 Iraq during his employment with HMC?

20 A. He received notice from the army and 10:17
21 brought that to my attention relatively quickly
22 after he received notice.

23 Q. Do you remember approximately how much
24 notice he gave you?

25 A. Oh, a month and a half, maybe. Does 10:18

1 that sound reasonable? 10:18

2 Q. It does to me.

3 A. It does to me.

4 MR. LONERGAN: Give your best

5 estimate. 10:18

6 BY MS. RHODE:

7 Q. Yes.

8 A. My best estimate is a month and a half.

9 Q. Okay. And as you said, that was
10 reasonable notice to you of his deployment? 10:18

11 A. Right.

12 Q. Did he indicate to you at the time he
13 gave you notice of his -- having notice of
14 impending deployment, did he indicate to you how
15 long he would be deployed or how long he thought 10:18
16 he would be deployed?

17 A. He anticipated 90 days.

18 Q. And how was his position covered during
19 the period of his deployment?

20 A. While he was deployed, we covered his 10:18
21 positions through locum tenens including
22 physicians from the Tullahoma community that we
23 brought in to assist with call, et cetera, as well
24 as -- it was during that time period that we hired
25 a physician, an orthopaedic physician named Emmett 10:19

1 Mosley.

10:19

2 Q. At that point in time, were you also
3 attempting to recruit Dr. Mosley for a full-time
4 position with HMC?

5 A. We had been working to recruit
6 Dr. Mosley -- we had been working to recruit an
7 orthopod ever since I started losing locum tenens
8 in the first place. Right? The first memorable
9 contact with Dr. Mosley was early April, I

10:19

10 believe, of 2011. So yes, before Dr. Slusher left
11 for deployment, we were in touch with Dr. Mosley.
12 And Dr. Slusher was aware of that.

10:19

13 Q. Okay. Were you attempting to recruit
14 Dr. Mosley before you got notice that Dr. Slusher
15 was going to be deployed?

10:20

16 A. We were attempting to recruit a
17 physician. And I think Dr. Mosley was in the
18 pipeline, one of the people in the pipeline, I
19 assume.

20 Q. And who specifically was attempting --
21 the front line -- attempting to recruit
22 Dr. Mosley? Would that have been Ms. Rader?

10:20

23 A. It would have been a combination of
24 myself, Ms. Rader and Sarah Smith.

25 Q. Okay. Do you recall if you personally

10:20

1 had any discussions with Dr. Mosley before you 10:20
2 received notice from Dr. Slusher that he was going
3 to be deployed?

4 A. I suspect that I did.

5 Q. Do you have a specific recollection 10:20
6 about whether that occurred?

7 A. I have a recollection of a phone call
8 that Dr. Mosley made to me on April the 7th.

9 Q. Okay. Why does that date stick out in
10 your mind? 10:21

11 A. In reading through notes on my
12 recruitment -- recruitment notes I have.

13 Q. Okay. Which leads me to another
14 question, totally different. What, if anything,
15 did you do, Mr. Buckner, to prepare for your 10:21
16 deposition today other than speak with your
17 attorney? And I'm not asking you about that.

18 A. Okay. Went through in my head to
19 prepare a mental timeline of what happened when so
20 that I could recall dates more easily. My 10:21
21 attorney did give me a package on how to be a good
22 witness or something like that that I read
23 through. And I've spoken with counsel for advice
24 on the issue a number of times.

25 Q. Okay. Yeah. And that's fine. I don't 10:21

2 **A.** Right.

3 Q. I'm not getting into any of that.

4 **A.** Okay.

5 Q. Did you review any particular documents? 10:21

6 **A.** Yes. I had a package of documents that
7 were prepared, both of which -- some of which I'm
8 looking at now with you.

9 Q. Okay. Any other specific documents you
10 recall having looked at? 10:22

11 **A.** I recall looking at his contract.

12 Q. Dr. Slusher's contract?

13 **A.** Right. As well as looking at his
14 termination notice, as well as looking at his
15 records from the Army indicating when he was 10:22
16 leaving and when he was coming back, things like
17 that.

18 Q. Anything else?

19 **A.** Letters from you -- or from his attorney
20 at the time. 10:22

21 Q. My partner, Martine Jackson?

22 **A.** Yeah, that's it.

2.3 O. Okay.

24 **A.** That's what I recollect.

25 **Q.** Okay. And you said in your mind you 10:22

1 prepared -- you were figuring out a timeline. 10:22

2 Tell me that timeline that you --

3 A. I wanted to get in my own head how the
4 process was all the way from when Dr. Elizondo
5 left immediately, through the locums period, 10:22
6 through the Slusher period, through the Mosley
7 period.

8 Q. Okay. So recount that specifically.
9 Take me from the very beginning to the termination
10 of the contract with Dr. Slusher, as you prepared 10:22
11 this timeline in your head.

12 A. All right. Okay. Well, I didn't
13 prepare it that well. But we'll see --

14 Q. As best you recall.

15 A. Dr. Mosley -- excuse me -- Dr. Elizondo 10:23
16 abruptly had to leave the hospital in July of
17 2010. It was at that point that I called
18 Weatherby. And I'm sure I called other locums
19 agencies as well, but began an immediate search to
20 find locum tenens coverage for the hospital for 10:23
21 orthopaedic surgery.

22 I went through that process until at
23 some point during that locums period Dr. Slusher
24 came as a locums. And then it was February 28th
25 that Dr. Slusher signed the contract -- either 10:23

1 signed or started on that date. I don't recall. 10:23

2 Then it was April 7th that I got the
3 phone call from Mosley. That was one record of
4 our discussions. October 26, Slusher's -- no, no,
5 no. What was Slusher's last day -- March, April, 10:24
6 May -- June 6th or something, I think, was his
7 last day.

8 Q. Before deployment?

9 A. Before deployment. And then he came
10 back on October 26th. Dr. Mosley started about a 10:24
11 month, month and a half before that. I think
12 sometime in late August, early September. So I
13 think that's the whole timeline.

14 Q. And what was the call on April 7th of
15 2011 from Dr. Mosley? 10:24

16 A. That was a record -- a call that was on
17 the record as Dr. Mosley just calling me to have a
18 direct contact with the CEO at the hospital to
19 talk about recruitment.

20 There's two ways of -- well, nevermind. 10:25
21 Go ahead.

22 Q. No. Go ahead. There were two ways
23 of...

24 A. There's two ways doctors typically got
25 the CEO's attention. One would be direct. The 10:25

1 other one would be through Sarah Smith or the 10:25
2 recruitment team at the corporate office.

3 Dr. Mosley had been on the corporate
4 radar for a number of years, as he had called CHS
5 on a number of occasions interested in various 10:25
6 opportunities. So this note was just saying that
7 the baton had been passed, basically, from the
8 corporate office to the hospital.

9 Q. Ideally, how many orthopaedic surgeons
10 did you hope to hire at HMC? 10:25

11 A. One.

12 (Whereupon, Exhibit Number 5 was
13 marked for identification.)

14 BY MS. RHODE:

15 Q. I'm going to hand you what I have marked 10:26
16 as Exhibit 5.

17 MS. RHODE: Off the record for
18 a second.

19 (Whereupon, a discussion off the
20 record occurred.) 10:26

21 BY MS. RHODE:

22 Q. Mr. Buckner, I should have said if at
23 any point you need to take a break, just let me
24 know and we'll --

25 A. We're going to do that after this 10:27

1 exhibit. 10:27

2 Q. Okay. Fair enough.

3 MS. RHODE: Would you want to
4 take it before we do this?

5 THE WITNESS: Yeah, let's do 10:27
6 it.

7 MS. RHODE: Okay.

8 (Recess observed.)

9 MS. RHODE: Back on the
10 record. 10:34

11 BY MS. RHODE:

12 Q. Mr. Buckner, you said you wanted to
13 correct something.

14 A. I simply remembered, when I took the
15 break there, that I had been deposed before a long 10:34
16 time ago on a phone deposition. And you had asked
17 me that earlier and I said no.

18 Q. Okay.

19 A. So big deal.

20 Q. That's fine. Thank you. No problem. 10:35
21 Thank you.

22 I'm going to hand you what has been -- I
23 think you have Exhibit 5?

24 A. I do.

25 Q. And can you tell me if this appears to 10:35

1 be the policy on military leave that was in effect 10:35
2 at HMC while you were the CEO?

3 A. It does appear to be.

4 Q. Okay. This is a five-page document,
5 correct? 10:35

6 A. It is.

7 Q. Is this a CHS document, or is this
8 unique to HMC, or something else, if you know?

9 A. I couldn't tell you.

10 Q. But you can tell me that it is actually 10:35
11 the policy, military leave policy, that was in
12 place during the period of time that Dr. Slusher
13 was employed by HMC.

14 A. I can tell you that it appears to be so.

15 Q. And if it is in fact the policy, it took 10:36
16 effect -- it was effective since July 15th of
17 2007, according to the approval format at the
18 bottom of the page.

19 A. Correct.

20 Q. And is that the same kind of format that 10:36
21 generally was used by HMC?

22 A. It would be.

23 Q. I'm going to hand you what I've marked
24 as Exhibit 6 and ask you if that is --

25 MR. LONERGAN: I've got that 10:36

1 at the back of Exhibit 5. 10:36

2 MS. RHODE: Is it on the back?

3 Okay.

4 MR. LONERGAN: I think it is.

5 THE WITNESS: Appears to be 10:37

6 the same.

7 MS. RHODE: Well, give that

8 one back to me and we'll not make this one an

9 exhibit.

10 Off the record. 10:37

11 (Whereupon, a discussion off the
12 record occurred.)

13 BY MS. RHODE:

14 Q. So on page 5 of Exhibit 5, that is the
15 table of benefits for individuals on military 10:37
16 leave of absence that was in effect during the
17 time that Dr. Slusher was employed by HMC?

18 A. It appears to be.

19 (Whereupon, Exhibit Number 6 was
20 marked for identification.) 10:37

21 BY MS. RHODE:

22 Q. I'm going to hand you what I've marked
23 as Exhibit 6 and ask you if Dr. Slusher provided
24 you with a copy of the orders that he received
25 dated April 20th, 2011, that's marked as 10:38

1 Exhibit 6.

10:38

2 A. Yes.

3 Q. Is that part of what -- when you were

4 saying he gave you notice that he was being --

5 that he was going to be deployed? Is that part of

10:38

6 the notice you're referring to?

7 A. May well have -- yes, this is the notice

8 I was referring to.

9 Q. Okay. Did Dr. Slusher also give you

10 written notice when he was going to be released

10:38

11 from his deployment to return to work?

12 A. He did.

13 (Whereupon, Exhibit Number 7 was

14 marked for identification.)

15 BY MS. RHODE:

10:39

16 Q. I'm going to hand you what I've marked

17 as Exhibit 7 and ask you if that's one of the

18 documents that you received from Dr. -- if that is

19 a document you received from Dr. Slusher

20 indicating he was going to be released from his

10:39

21 military service on September 23rd, 2011, or

22 thereabouts.

23 A. I don't recall the specific document,

24 but this appears to be something that sure might

25 have been given to me. I do remember I received a

10:39

1 document.

10:39

2 Q. Okay. Is there any question in your
3 mind that you got timely notice of his intent to
4 return to HMC after he had been -- completed his
5 deployment?

10:39

6 A. No.

7 (Whereupon, Exhibit Number 8 was
8 marked for identification.)

9 BY MS. RHODE:

10 Q. I'm going to hand you what is marked
11 Exhibit 8 and ask you if you can tell me what this
12 document is.

10:40

13 A. This is an agreement with Dr. Slusher
14 to --

15 Q. And when you -- go ahead. I'm sorry.

10:40

16 A. -- to terminate his employment
17 agreement --

18 Q. And is that --

19 A. -- effective October 26, 2011. It's
20 basically a 90-day notice.

10:40

21 Q. Is that your signature on Exhibit 8?

22 A. It is.

23 Q. Can you tell me how Exhibit 8 -- how the
24 preparation of Exhibit 8 came about?

25 A. Sure. Beginning with my -- one of my

10:41

1 first conversations with Dr. Slusher, he was aware 10:41
2 that we were attempting to recruit a full-time
3 physician into the Shelbyville community, in the
4 hospital. As I told you before, he was even asked
5 several times if he would be that full-time 10:41
6 physician. "Full-time" not meaning 40 hours a
7 week, but meaning a long period of time.

8 Q. A permanent position?

9 A. Right.

10 Q. Okay. 10:41

11 A. And he declined. He wasn't interested
12 in that opportunity. So we continued to run our
13 search to find somebody. Our community is a small
14 community and can support only one orthopaedic
15 surgeon. 10:41

16 So when we did locate and had signed
17 Dr. Mosley to be our full-time orthopaedic
18 surgeon, that search going on the whole time I
19 knew Dr. Slusher. And he was well aware of it.
20 He was also well aware of it while he was on 10:42
21 leave, that we were looking for someone to take
22 over full time.

23 It's, in fact, why we put the year-long
24 contract together with a 90-day, no-fault out
25 clause, because there very likely and very 10:42

1 hopefully would be a need to end the contract 10:42
2 earlier. It was okay with him because he always
3 wanted to get back to his roots in Pinehurst and
4 back to the practice that he was working on there
5 with some other orthopod. So we had an agreeable 10:42
6 relationship and many conversations about this
7 throughout.

8 Dr. Mosley signed, so I knew I had a
9 doctor and could not afford to have two doctors on
10 staff at the same time, and so did the 90-day 10:42
11 notice and sent this to Dr. Slusher. This would
12 have been worked through -- a notice of this
13 nature would have been worked through corporate
14 legal, Rhea Garrett specifically, who is our
15 USERRA rights kind of attorney. Or maybe just 10:43
16 a -- maybe just a specialist employment. I'm
17 really not sure about his legal role in this.

18 MS. RHODE: And Rhea is
19 R-H-E-A?

20 MR. LONERGAN: Correct. 10:43
21 Double "R," double "T."

22 BY MS. RHODE:

23 Q. But he's one of the corporate attorneys?

24 A. Correct.

25 Q. Is it your understanding that he drafted 10:43

1 the document that is in front of you as Exhibit 8? 10:43

2 A. He did.

3 Q. So Dr. Mosley signed an agreement with
4 HMC in August of 2011?

5 A. That is my recollection. 10:43

6 Q. Did you actually have any conversations,
7 either by phone, by email, by text, with
8 Dr. Slusher during the period of time he was
9 deployed in Iraq?

10 A. I don't recollect that I did. Tisha 10:44
11 Rader had several under my direction.

12 Q. Okay. Do you know, did Ms. Rader have
13 any phone conversations with Dr. Slusher, or was
14 it all by email or text?

15 A. I don't recall any phone conversations, 10:44
16 but I wouldn't deny if they happened. They
17 certainly could have happened. But I do recall
18 many texts and emails.

19 Q. Okay. But there are no phone calls of
20 which you are personally aware? 10:44

21 A. None. No.

22 Q. Now, under Exhibit 3, which is the
23 contract -- I believe it's -- that. Yes.
24 Exhibit 3. Is there any requirement that there be
25 an amendment -- as you understand it -- any 10:45

1 requirement that there be a written amendment to 10:45
2 the contract if the hospital wanted to give 90-day
3 notice? Or could it just give written notice of
4 its intent to terminate the contract under
5 Section 10.4? 10:45

6 A. Yeah. It's a 90-day, no-fault
7 arrangement, so either party could just notify the
8 other one.

9 Q. Okay.

10 A. I believe it would have to be in 10:45
11 writing, but...

12 Q. And to your knowledge, Mr. Buckner, was
13 there any monetary compensation or any other kinds
14 of compensation to Dr. Slusher for entering into
15 Exhibit 8? 10:45

16 A. My understanding, per our employment
17 arrangements, that he was entitled to get paid for
18 vacation he hadn't used.

19 Q. Okay. But that was -- that was
20 something he was entitled to whether he had been 10:45
21 deployed or not?

22 A. Correct.

23 Q. Anything else?

24 A. Not to my knowledge.

25 Q. Okay. During the time that Dr. Slusher 10:46

1 was deployed while employed by HMC, he was not 10:46
2 paid his salary under the contract, correct?

3 A. Correct.

4 Q. But any discussions with Dr. Slusher
5 concerning the termination agreement, which is 10:46
6 Exhibit 8, would have occurred on behalf of HMC by
7 Ms. Rader, not you or anyone else that you're
8 aware of; is that right?

9 A. Under my authority with Ms. Rader.

10 Q. Absolutely. 10:46

11 A. Yes.

12 Q. But in terms of who actually had any
13 discussion, Ms. Rader would have been acting on
14 your authority?

15 A. Right. 10:47

16 (Whereupon, Exhibit Number 9 was
17 marked for identification.)

18 BY MS. RHODE:

19 Q. Have you seen the emails -- strike that.

20 Were you copied on emails between 10:47

21 Ms. Rader and Dr. Slusher regarding this
22 termination agreement?

23 A. Yes.

24 Q. I'm going to hand you what's been marked
25 as Exhibit 9 -- 10:47

1 MR. LONERGAN: Thank you. 10:47

2 BY MS. RHODE:

3 Q. -- which purports to be an email -- the
4 initial email from Ms. Rader to Dr. Slusher
5 regarding termination agreement on July 27, 2011. 10:48
6 Is that correct?

7 A. It is.

8 Q. And you were copied on this, were you
9 not?

10 A. One way or another. I don't see myself 10:48
11 on the copy line, but I know that I've seen it.

12 Q. Well, if you look at --

13 MR. LONERGAN: Look at that
14 (indicating).

15 BY MS. RHODE: 10:48

16 Q. If you look down, it says to
17 Dr. Slusher --

18 A. Okay. There you go.

19 Q. Then danbuckner01 --

20 A. Yeah. I sure enough was. 10:48

21 Q. Okay. And also copied were Mr. Thorne
22 and Rhea Garrett, as well as a number of other
23 people, correct?

24 A. Correct.

25 Q. Okay. Can you tell me who LEEANNE LANE 10:48

1 is?

10:48

2 **A.** Leeanne Lane was the assistant
3 administrator of the hospital.

4 **Q.** At HMC?

5 **A.** At -- yes. Yes, ma'am.

10:48

6 **Q.** And Mr. Thorne was the director of --

7 **A.** Human resources.

8 **Q.** -- human resources. Thank you. And
9 Rhea Garrett, we've talked about, was part of
10 corporate counsel.

10:49

11 **A.** Right.

12 **Q.** And Shannone Raybon, who is -- is that a
13 woman?

14 **A.** It is. And I believe she was my legal
15 counsel assigned to my division.

10:49

16 **Q.** Okay. And is it your understanding that
17 Mr. Garrett prepared the document that's
18 Exhibit 8, the termination agreement?

19 **A.** Yes.

20 MR. LONERGAN: I'm sorry. Did
21 I hear that correctly? Referred to in Exhibit 8?

10:49

22 MS. RHODE: Referred to as
23 Exhibit 8.

24 MR. LONERGAN: Got you. Thank
25 you.

10:49

1 (Whereupon, Exhibit Number 10 was 10:50
2 marked for identification.)

3 BY MS. RHODE:

4 Q. Mr. Buckner, I'm going to hand you what
5 I've marked as Exhibit 10. Is that an email that 10:50
6 you received from Dr. Slusher dated September 7,
7 2011, indicating his notice of release from active
8 service and his intent to complete his duties and
9 obligations under the employment agreement?

10 A. It is. 10:50

11 Q. And he indicated to you, in Exhibit 10,
12 that he would report to work at HMC on
13 October 3rd, 2011?

14 A. Correct.

15 Q. And he did in fact return to work at HMC 10:51
16 on October 3rd, 2011, did he not?

17 A. He did.

18 Q. And when he returned to work, did he
19 meet with you to receive any directions about what
20 he should do during the period of his remaining 10:51
21 employment with HMC?

22 A. He did.

23 Q. And can you tell me, was there anyone
24 else present when he met with you about that?

25 A. I'm unaware. 10:51

1 Q. And tell me, as best as you can recall, 10:51
2 what that discussion was.

3 **A.** Now that we had a new physician on duty,
4 Dr. Mosley -- and Dr. Mosley was not an employed
5 physician. He was an independent physician. And 10:51
6 he had leased the office space that previously
7 Dr. Slusher was in. So we had to realign
8 Dr. Slusher's office space, where he would
9 practice out of. We had to figure out his call
10 schedule. We had to figure out specific duties 10:52
11 related to his coming back and that kind of thing.

12 Q. Okay. So Dr. Mosley -- what space that
13 previously had been used by Dr. Slusher was leased
14 by Dr. Mosley?

15 **A.** The office space is in a building across 10:52
16 the parking lot from the hospital. It's on the
17 bottom floor of the building. And it is an office
18 space specifically set up for an orthopaedic
19 physician in that it has x-ray capabilities next
20 door as well as cast-making rooms and things of 10:52
21 that nature.

22 So when we hired Dr. Mosley -- the
23 hospital has a master lease on that space -- and
24 when I say "hospital," I actually don't know --
25 I'm probably talking the physician practice side. 10:52

10:53

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10:53

1 Thank you.

10:53

2 Q. Okay. But did I say it correctly?

3 A. Yes, you did. Yeah.

4 Q. Okay. And were there separate rooms,
5 examining rooms, that were used by Dr. Slusher as
6 opposed to Dr. Mosley? Or did they use the same
7 examination rooms or casting rooms?

10:54

8 A. There were some hallway areas and
9 reception areas that were shared. As far as exam
10 rooms goes, there were separate exam rooms.

10:54

11 Q. Okay. Was the reception area part of
12 the space leased to Dr. Mosley?

13 A. Yes, it was.

14 Q. And the examining rooms that Dr. Slusher
15 used, was any of that leased to Dr. Mosley? Or
16 was that --

10:54

17 A. That would have been separate space not
18 leased by Dr. Mosley.

19 Q. Okay. Got it.

20 (Whereupon, Exhibit Number 11 was
21 marked for identification.)

10:54

22 BY MS. RHODE:

23 Q. I'm going to hand you what I've marked
24 as Exhibit 11 which purports to be an email from
25 Ms. Rader to Dr. Slusher dated September 8, 2011.

10:55

1 Have you ever seen this document? 10:55

2 A. I have.

3 Q. And when she said that "We are still
4 researching where to place you as Dr. Mosley now
5 rents the space you were in and he's not our 10:55

6 employed physician which makes it more
7 complicated," do you have an understanding of what
8 was more complicated, what you meant by when --
9 her comment that it makes it more complicated?

10 A. Yeah. We weren't trying -- things like 10:55
11 sharing the same waiting room was not our original
12 plan. Because one doctor leases it, it wasn't our
13 intention to have two doctors share it. So some
14 things like that had to be negotiated with
15 Dr. Mosley or gotten around in one way or another. 10:55

16 Q. Okay. Got it.

17 (Whereupon, Exhibit Number 12 was
18 marked for identification.)

19 BY MS. RHODE:

20 Q. I'm going to hand you what I have marked 10:56
21 as Exhibit 12. It appears to be an email train
22 from Dr. Slusher to Ms. Rader, asking for being
23 provided with a schedule of where he's supposed to
24 be when he returns in October, correct, the one at
25 the bottom? 10:56

1 **A.** It does, uh-huh. 10:56

2 **Q.** And then from Ms. Rader to Dr. Slusher
3 saying, "Please meet me at the office." And
4 Dr. Slusher saying, "Got it," he'd do that,
5 correct? 10:57

6 **A.** Uh-huh. You're correct.

7 **Q.** And would Ms. Rader have been the one to
8 prepare his calendar of --

9 **A.** To some extent, yes.

10 (Whereupon, Exhibit Number 13 was 10:57
11 marked for identification.)

12 BY MS. RHODE:

13 **Q.** I'm going to hand you what I've marked
14 as Exhibit 13. Have you seen this document
15 before? 10:57

16 **A.** I believe so.

17 **Q.** Okay. Can you tell me whose name is at
18 the top -- when it says received October 3 --
19 10/3/11, and then there's somebody's first initial
20 and name in the upper right-hand corner? 10:58

21 **A.** I can't tell you whose name it is.

22 **Q.** Is this the kind of schedule what was
23 given to physicians in October of 2011 at HMC?

24 **A.** It's atypical to have a schedule with
25 handwriting on it for physicians, but if we were 10:58

1 having a working document and working through with 10:58
2 a physician of what a schedule might be, this
3 might be a working document of some sort.

4 Q. Do you have any idea who prepared this
5 document that's Exhibit 13? 10:58

6 A. I don't.

7 Q. If Ms. Rader were to testify that she
8 prepared it, would you have any basis to
9 contradict that?

10 A. No. 10:58

11 (Whereupon, Exhibit Number 14 was
12 marked for identification.)

13 BY MS. RHODE:

14 Q. I'm going to hand you what I've marked
15 as Exhibit 14, which purports to be an email from 11:00
16 Martine Jackson of my law firm to you and
17 Ms. Rader regarding Dr. Slusher's attempts -- she
18 indicates in there Dr. Slusher's attempts to
19 contact Ms. Rader but not being able to do that
20 successfully, but also indicating that she was 11:00
21 attaching a more formal letter to you regarding
22 Dr. Slusher's intents when he returned; is that
23 correct?

24 A. That's what it says.

25 Q. And did you receive that email? 11:00

1 **A.** I did.

11:00

2 **Q.** Okay.

3 (Whereupon, Exhibit Number 15 was
4 marked for identification.)

5 BY MS. RHODE:

11:00

6 **Q.** I'm going to hand you Exhibit 15 and ask
7 you if that's the letter that was attached to it,
8 to that email that was Exhibit 14.

9 **A.** I have received this letter. I assume
10 it was attached to that.

11:01

11 **Q.** Okay. Would you agree with me the email
12 and the letter both bear the date of August 30,
13 2011?

14 **A.** Sure.

15 **Q.** When you received Exhibit 15, what, if
16 anything, did you do in terms of -- strike that.
17 What, if anything, did you do?

11:01

18 **A.** My recollection is that at this point I
19 was passing all information, attorney to attorney,
20 along to what's his name.

11:01

21 **Q.** Mr. Garrett?

22 **A.** Yes. Thank you. Rhea Garrett.

23 **Q.** Okay. So you just passed the letter on.
24 You read it and passed it on?

25 **A.** I may have passed it on with a

11:02

1 conversation. I'm not aware. 11:02

2 Q. Okay. Do you recall if you read it?

3 A. Yes, I did.

4 Q. As a result of having received the
5 letter of August 30, 2011, other than speaking 11:02
6 with Mr. Garrett or any of the legal staff, what,
7 if anything, did you do in response to the letter
8 of August 30?

9 A. I don't believe I did anything.

10 Q. Did you know, Mr. Buckner, when 11:03
11 Dr. Slusher was deployed, if it was possible that
12 he would have remained in military service longer
13 than 90 days?

14 A. He did tell me that was a possibility.

15 Q. Okay. Can you tell me what your 11:03
16 understanding is, then, if Dr. Slusher had
17 remained in military service into November of
18 2011...

19 MR. LONERGAN: Object to the
20 form. You can answer if you understand it. 11:03

21 THE WITNESS: Okay.

22 MS. RHODE: Well, wait. I
23 haven't finished. I'm sorry.

24 MR. LONERGAN: Okay. I'm
25 sorry. You paused. And I thought -- 11:03

1 MS. RHODE: Yeah, I did. I 11:03

2 was trying to --

3 MR. LONERGAN: I do that same

4 thing. Sorry.

5 MS. RHODE: Let me start 11:03

6 again.

7 BY MS. RHODE:

8 Q. Do you have an understanding,

9 Mr. Buckner, that -- what, if any, work

10 Dr. Slusher would have returned to had he not 11:03

11 completed his deployment until November of 2011?

12 A. My understanding is he would not have

13 returned to the hospital since at that point his

14 90-day notice would have been exhausted.

15 (Whereupon, Exhibit Number 16 was 11:04

16 marked for identification.)

17 BY MS. RHODE:

18 Q. I'll hand you what's been marked as

19 Exhibit 16. That is your letter to Dr. Slusher

20 dated October 26, 2011, indicating that's his last 11:04

21 day of employment with HMC, correct?

22 A. It appears to be.

23 Q. And does that appear to be your

24 signature?

25 A. There's not a signature on it. 11:05

2 corrected.

11:05

11:06

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EXHIBIT A

25 **A.** Right.

1 Q. Okay. So explain to me the process. If 11:09
2 he's an employed physician, he knows what his
3 salary is going to be.

4 **A.** Right.

Q. But when he performs a surgical
procedure, that billing goes -- whatever is billed
and collected goes to the hospital.

8 **A.** The hospital and/or the --

9 Q. Clinic corporation?

10 **A.** -- clinic corporation. 11:09

11 Q. Goes to the corporation. Goes to his
12 employer, not to him directly.

13 **A.** Right. Correct.

14 Q. Okay. And would you agree with me that
15 Dr. Slusher was a productive surgeon when he was 11:09
16 employed for HMC?

17 **A.** Sure.

18 Q. And when he was actually employed from
19 HMC, can you give me just kind of a range of how
20 much gross income he could generate from his 11:10
21 surgical activities for HMC?

22 **A.** Gross income, a surgeon could generate
23 anywhere from, without being overly facetious,
24 \$50,000 to a million dollars.

25 Q. Depends on how many people need what 11:10

1 kind of orthopaedic surgery, correct? 11:10

2 A. How well he's trusted, how many people
3 are referring patients, what his outcomes are
4 like.

5 Q. Was Dr. Slusher trusted? 11:10

6 A. I really can't speak to that. That
7 would be the opinions of his referral sources.

8 Q. Okay. Did he have -- did he have a lot
9 of patients? Did he perform a number of
10 procedures while he was employed for HMC? 11:10

11 A. As compared to other orthopaedic
12 physicians that had been there beforehand, the
13 answer would be no. He performed more of a
14 minimum number.

15 Q. Did he have successful outcomes while he 11:11
16 was employed at HMC?

17 A. I believe he did.

18 Q. Is there anything else that you can
19 recall about your presentation to the medical
20 executive committee on October 20th, 2011, other 11:11
21 than what you've already told me today?

22 A. I wouldn't imagine.

23 Q. Is there anything that you could refer
24 to that would help refresh your recollection if
25 there was something more that you presented to the 11:11

1 executive committee on that day? 11:11

2 A. Not that I can think of.

3 Q. Did you ever have any kind of training
4 on the rights of an employee for military leave
5 while employed by HMC? 11:12

6 A. I believe in the employee handbook there
7 are some directions on how the company handles
8 that.

9 Q. Okay. But do you recall whether you
10 specifically ever had any training from corporate 11:12
11 or any of the corporate attorneys or anybody else
12 in terms of what your obligations as the CEO at
13 the hospital were if an employee requested
14 military leave?

15 A. Yes. Typically, on an issue like that, 11:12
16 my training would be to call corporate counsel as
17 it relates to the specifics.

18 Q. Okay. So --

19 A. In this case, Rhea Garrett.

20 Q. Okay. So if you had -- if there was any 11:12
21 question, then you simply were to call Mr. Garrett
22 or a member of his staff.

23 A. Anything that I felt was over my head or
24 I didn't understand completely.

25 Q. Okay. Let me go back a little bit 11:12

1 before that. Did you have any general training 11:12

2 specifically about the hospital obligations for

3 military leaves when an employee was being

4 deployed, so that -- and hold for a second -- if

5 you said it was over your head, then that assumes 11:13

6 that you had some basic understanding. So my

7 question more specifically is did you get any

8 training about the basic requirements of military

9 leave regarding employees of HMC?

10 A. Yes. I believe, as all of our employees 11:13

11 do, including myself, in new-employee training at

12 the hospital, which I think comes in through the

13 handbook, there is a section regarding military

14 rights or military leave or something like that.

15 Q. Okay. So when you were a new employee 11:13

16 to HMC, did you have an orientation with HMC?

17 A. I did.

18 Q. And as part of that orientation, you

19 went over the handbook?

20 A. Correct. 11:13

21 Q. And so there was some -- just some

22 training about what the handbook is and what the

23 leaves are and where to go look if you have a

24 basic question?

25 A. Yeah. 11:14

Q. And then if that question is not addressed by the handbook, then you would go to corporate counsel?

4 **A.** Yes.

5 Q. All right. Anything else other than 11:14
6 that?

7 **A.** I think -- no. That would sum it up
8 nicely.

9 Q. Okay. And in any of the communications
10 you had with Dr. Slusher, did you ever 11:14
11 specifically discuss his USERRA rights?

12 **A.** In written communications with his
13 attorney, it was discussed.

14 Q. By you?

15 **A.** I don't think so. I think I received 11:14
16 those letters and forwarded them on.

17 Q. Okay.

18 **A.** I don't think -- it wouldn't be out of
19 the question that I would have, but I don't
20 believe I did. 11:14

21 Q. And when I use the term "USERRA," do you
22 know what I'm referring to?

23 **A.** I do.

24 Q. Okay.

25 (Whereupon, Exhibit Number 18 was 11:15

1 marked for identification.) 11:15

2 BY MS. RHODE:

3 Q. Mr. Buckner, I'm handing you what I've
4 marked as Exhibit 18, which purports to be a
5 letter from Dr. Slusher to you, notifying you of 11:15
6 his intent to return to work on October 3rd, 2011.
7 Do you recall receiving this letter?

8 A. I recall receiving something of this
9 nature, yes.

10 Q. When Dr. Slusher returned from his 11:16
11 deployment in October of 2011, did you have any
12 discussions with him about the possibility of a
13 permanent employment with HMC?

14 A. Upon his return?

15 Q. Yes, sir. 11:16

16 A. No. At that point, Dr. Mosley was our
17 sole orthopaedic physician.

18 Q. And prior to his deployment when you did
19 have discussions with Dr. Slusher about being a
20 permanent employee, did he ever suggest to you 11:16
21 that he needed to have his wife come to the area
22 first to see it?

23 A. Yes. At one point he acted like he
24 might have an interest in that, and we discussed
25 his wife and family might come see it. 11:16

11:16

11:17

11:17

11:17

11:17

11:17

11:17

11:17

11:18

11:18

1 violated USERRA with respect to Dr. Slusher? 11:18

2 A. I received a letter indicating that.

3 Q. Okay. And what, if anything, did you do

4 with respect to the letter indicating violation

5 other than speak with legal counsel? 11:18

6 A. Nothing.

7 Q. Okay. Was anybody else present when you

8 spoke with legal -- or did you actually speak to

9 legal counsel?

10 A. Yes. 11:18

11 Q. Okay. And was anybody else present

12 other --

13 A. Well, may I go back?

14 Q. Yes, sir.

15 A. I may have emailed legal counsel. I 11:18

16 don't know if I spoke directly.

17 Q. That's all right. Okay. So you had

18 communication --

19 A. Communicated with.

20 Q. That's fine. If you actually met with 11:18

21 legal counsel, was anybody else present other than

22 a member of the legal staff or a member of the

23 administration?

24 A. I'm not aware.

25 Q. I think you indicated earlier -- and I 11:19

1 just want to make sure -- that when Ms. Rader was 11:19
2 negotiating or speaking with Dr. Slusher on behalf
3 of HMC, she did so with your authority; is that
4 correct?

5 A. Yes. 11:19

6 Q. And when did Ms. Rader leave HMC?
7 Before or after you?

8 A. Before.

9 Q. What were the circumstances of her
10 departure? 11:19

11 A. Before she came to work for me, she had
12 worked doing physician credentialing, and she got
13 an opportunity to work from home doing the same
14 for another company. And it was a more attractive
15 opportunity. 11:19

16 Q. And do you know where she currently
17 resides?

18 A. Somewhere in the Nashville area.

19 Q. Have you had any discussions with her
20 about this case? 11:20

21 A. No, I haven't.

22 Q. Who is Shelly Dortch?

23 A. She was one of the staff members
24 employed to work for Dr. Slusher in his clinic.

25 Q. Did Ms. Dortch leave before or after 11:20

1 you? 11:20

2 A. I don't recollect.

3 Q. Do you know why she left HMC?

4 A. I can -- I'll take a gut check on that.

5 Q. Well, let me put it this way. Do you 11:20
6 have an understanding --

7 MR. LONERGAN: Don't guess.

8 BY MS. RHODE:

9 Q. Don't guess.

10 A. Okay. 11:20

11 Q. Do you have an understanding -- whether
12 it's accurate or not, do you have an
13 understanding?

14 A. Yes.

15 Q. And what is that? 11:20

16 A. That she went to work for Dr. Mosley
17 when he was -- became an independent practitioner.

18 Q. When you say an "independent
19 practitioner," does that mean he no longer has --
20 he did not continue to have a contract with HMC? 11:20

21 A. He wasn't employed by HMC.

22 Q. Okay.

23 A. He was in fact assisted financially as
24 he came in.

25 Q. Okay. 11:21

11:21

2 Q. Do you know if Dr. Mosley still has a
3 relationship, an employment or a contractual
4 relationship, with HMC?

11:21

6 Q. Did he, at the time that you retired --
7 or resigned -- I'm sorry -- to your knowledge?

8 **A.** Yes.

11:21

11 **A.** Yes. Well, I shouldn't say that. As of
12 three or four months ago, yes.

13 Q. Okay. Do you know if Dr. Mosley has any
14 ongoing litigation with Heritage or -- HMC or CHS?

11:21

16 Q. And does he?

17 **A.** Yes.

18 **Q.** Bad question. I'm sorry. Do you know
19 what that litigation concerns?

11:22

21 Q. And have you been involved, in terms of
22 testifying or being deposed, in that case?

23 **A.** Yes.

24 **Q.** Has a deposition already occurred?

11:22

1 I don't recollect I've been deposed.

11:22

2 Q. Okay. You talked to the lawyer for you
3 or for him?

4 A. For me -- or for the hospital.

5 Q. Okay. Were you specifically alleged to
6 have engaged in any wrongdoing in that particular
7 case?

11:22

8 A. No.

9 Q. You're not a party to the litigation?

10 A. No.

11:22

11 Q. Okay. When you said -- strike that.
12 Did you ever indicate to Dr. Slusher
13 that he had been accused of sexual misconduct?

14 A. No.

15 Q. Just the one incident we previously
16 talked about, about using the "B" word?

11:23

17 A. Right. But I believe that was under
18 hostile work environment.

19 Q. Were there any patient complaints
20 involving Dr. Slusher during the time that he
21 worked for HMC?

11:23

22 A. Not that I really recollect.

23 Q. When a lawyer hears the words, "Not that
24 I really recollect" -- are there some that you
25 sort of recollect?

11:23

1 **A.** No. No, there wasn't. 11:23

2 **Q.** Okay. After Dr. Slusher left his
3 employment with HMC in October of 2011, did HMC
4 receive any requests for references?

5 **A.** I'm not aware. 11:23

6 **Q.** Did you specifically receive any
7 requests for references?

8 **A.** Not that I remember.

9 (Whereupon, Exhibit Number 19 was
10 marked for identification.) 11:24

11 BY MS. RHODE:

12 **Q.** Mr. Buckner, I'm going to hand you what
13 I've marked as Exhibit 19.

14 **A.** Okay.

15 **Q.** Now, is that a recruitment agreement 11:24
16 between HMC and Dr. Mosley?

17 **A.** It is a page of a recruitment agreement.

18 **Q.** Okay. A page. And it indicates a date
19 on this one page of the recruitment agreement
20 that -- a date of May 16th, 2011; is that right? 11:25

21 **A.** Top left, yes.

22 **Q.** Okay. Is this the document that, if you
23 know, that Ms. Rader would have used?

24 **A.** It's a document I would have used with
25 probably Sarah Smith -- 11:25

1 Q. Okay.

11:25

2 A. -- as we begin a conversation about a
3 physician -- as we begin a serious conversation
4 about a physician to start giving a heads-up to
5 our thought process.

11:25

6 Q. Okay. Do you recognize the handwriting
7 on Exhibit 19?

8 A. I don't.

9 Q. Fair to assume, then, it's not yours?

10 A. It's not mine. The signature is not
11 mine.

11:25

12 Q. I'm not sure if that's a signature or
13 just an indication that you would be the CEO.

14 A. Yeah. Exactly.

15 Q. When is a document like Exhibit 19 --
16 when is that completed in the general recruitment
17 process?

11:25

18 A. In the scheme of things, a document of
19 this nature would be completed as soon as we begin
20 to get serious and we're trying to start the
21 negotiation process on a contract.

11:26

22 Q. So there might have been discussions,
23 just kind of an "are you interested" sort of
24 thing? That might have occurred beforehand?

25 A. Yes. There would be lots of discussions

11:26

1 that would be generated before a document like 11:26
2 this is produced.

3 Q. In preparation -- during the preparation
4 of this lawsuit, there have been some documents
5 called interrogatories. 11:27

6 A. I'm going to write a note to myself.

7 Q. Okay. Go ahead.

8 A. My apologies.

9 Q. That's okay. Did the note have anything
10 to do with this case or was it just something 11:27
11 you're needing to do?

12 A. It had to do with this being an 18-month
13 recruitment agreement with Dr. Mosley.

14 Q. Okay. So tell me what the note said.

15 A. It will be the last time I write a note. 11:27

16 Q. I bet it will.

17 A. I was thinking in my head that
18 Dr. Slusher was employed for one year. This is an
19 18-month guarantee with Dr. Mosley. And just the
20 significance that we talked earlier, one is an 11:28
21 employment agreement and one is a contract
22 agreement.

23 Q. Correct. So what's the significance
24 that it -- the fact that it's an 18-month
25 guarantee? 11:28

1 **A.** Only that it contrasts with the one-year 11:28
2 employment agreement with Dr. Slusher.

3 **Q.** And Dr. Slusher was actually an employee
4 and Dr. Mosley was not?

5 **A.** Correct. 11:28

6 **Q.** Okay. Feel free to write any other
7 notes.

8 **A.** Yeah, you bet. Am I allowed to whisper?

9 MR. LONERGAN: No.

10 BY MS. RHODE: 11:28

11 **Q.** Sure. Did you go to whispering school?
12 Do you recall being presented with
13 certain questions that I had asked on behalf of --
14 I'm sorry. Strike that.

15 Were you presented or did one of your 11:28
16 attorneys discuss with you the actual Complaint
17 that was filed in this case, the factual
18 allegations?

19 **A.** I have seen it.

20 **Q.** Okay. And were you asked -- did you 11:29
21 give input as to whether those allegations,
22 factual allegations, were true or incorrect?

23 **A.** Yes.

24 **Q.** Okay. So I'm going to ask you about
25 some of those and your answers -- 11:29

1 **A.** Okay. 11:29

2 **Q.** -- so you can help me understand.

3 MR. LONERGAN: Those are his
4 discovery responses?

5 MS. RHODE: This is actually 11:29
6 the answer to the Complaint right now --

7 MR. LONERGAN: Okay.

8 MS. RHODE: -- is what I'm
9 looking at, if you want to get it out. I did not
10 make it an exhibit. 11:29

11 Off the record for a second.

12 (Whereupon, a discussion off the
13 record occurred.)

14 BY MS. RHODE:

15 **Q.** I asked a question in the Complaint -- 11:33
16 or I made an allegation in the Complaint that
17 reads as follows -- it's in paragraph 27 -- "On
18 July 28th, 2011, while serving in Iraq" -- are you
19 there? I'm sorry.

20 **A.** Got it. 11:33

21 **Q.** -- "Slusher received an email from Rader
22 containing a termination agreement effective that
23 same date."

24 The answer to that by the defendants,
25 you and the hospital -- you and the corporation -- 11:33

1 says, "Defendants admit that the plaintiff and 11:33
2 Shelbyville Clinic Corporation entered into a
3 termination agreement in which they mutually
4 agreed to terminate the employment agreement
5 effective August 26, 2011." 11:33

6 Can you tell me what mutual agreement
7 was made and by whom? And I assume that to be
8 July --

9 MR. LONERGAN: Can you read
10 the rest of that? 11:34

11 MS. RHODE: Oh, I'm sorry.

12 BY MS. RHODE:

13 Q. "Defendant further admits that the
14 termination agreement was created by mutual
15 negotiations between plaintiff and defendant, and 11:34
16 the referenced email was part of the
17 communications relating to that agreement.
18 Defendant denies all the remaining."

19 MS. RHODE: Mr. Lonergan, I
20 assume you mean July 26, 2011? 11:34

21 MR. LONERGAN: Yes.

22 MS. RHODE: Okay. I made the
23 correction on my copy.

24 MR. LONERGAN: Well, yeah.
25 The date that the agreement was signed. Not the 11:34

1 effective date of the termination. 11:34

2 MS. RHODE: No, no, no. I
3 understood that. But you meant to say July, so I
4 was just correcting --

5 MR. LONERGAN: That is 11:34
6 correct. Thank you.

7 MS. RHODE: Sure.

8 BY MS. RHODE:

9 Q. So my question, Mr. Buckner, is
10 particularly to the second sentence, when the 11:34
11 answer says the termination agreement, do you know
12 what I'm referring to, the one page --

13 A. If it's the termination agreement that
14 was the October 26th deadline, yes.

15 Q. Yes. 11:34

16 A. Right.

17 Q. But it was signed on July 26th --

18 A. Correct.

19 Q. -- or effective July 26th. It says "was
20 created by mutual negotiations between the 11:34
21 plaintiff and the defendant." Can you tell me,
22 sir, your understanding of what mutual
23 negotiations occurred between the plaintiff and
24 the defendant that resulted in that termination
25 agreement dated July 26, 2011, effective 11:35

1 October 26, 2011?

11:35

2 **A.** Both parties agreed that they had a
3 contract, a one-year contract, with a 90-day
4 either-party out clause.

5 MR. LONERGAN: Slow down a
6 little bit.

11:35

7 THE WITNESS: Okay.

8 BY MS. RHODE:

9 **Q.** Yeah. For her.

10 **A.** Both parties agreed that we had a
11 contract. It was a one-year contract. In that
12 contract was a 90-day, either-party, no-fault out
13 clause, and that the no-fault out clause was being
14 elected, and that is the same meaning as 90-day
15 termination.

11:35

11:35

16 **Q.** Okay. So when you say -- when the
17 answer says it was created by mutual negotiations,
18 it's your understanding that's in reference to the
19 actual contract that is Exhibit 3?

20 **A.** True.

11:35

21 **Q.** And now I'm looking at paragraph 30 on
22 page 4 of the Complaint. And it reads, "The
23 termination agreement did not contain any language
24 waiving Slusher's USERRA rights or any other
25 employment rights."

11:36

1 And on page 5 of the answer, from 11:36
2 paragraph 30, it says, "Defendants deny the
3 allegations contained in paragraph 30 of the
4 Complaint."

5 Do you believe that the termination 11:36
6 agreement --

7 MR. LONERGAN: I've just
8 pulled it and put it in front of him.

9 MS. RHODE: Okay. It was just
10 Exhibit -- 11:36

11 MR. LONERGAN: No --

12 MS. RHODE: I'm just looking
13 at the number. Your hand is in front of it.
14 Sorry -- Exhibit 8. Thank you very much.

15 BY MS. RHODE: 11:36

16 Q. Do you believe that Exhibit 8 contains
17 any language waiving Dr. Slusher's USERRA rights?

18 A. No. No, it does not.

19 Q. And so in the other -- in terms of any
20 other employment rights, do you have an 11:37
21 understanding of what other employment rights were
22 waived, if any, by Exhibit 8?

23 A. He was an employee of the hospital and
24 an employee per contract with the corporation.

25 Q. Okay. So it's your understanding that 11:37

1 he's waiving the right to complete the contract 11:37
2 through February 28th of 2012?

3 A. What number is it again? Let me read it
4 again.

5 Q. 30. 11:37

6 A. Yeah. It's just saying that he, as an
7 employee of the hospital, he has rights. The
8 contract itself says there is a 90-day term in
9 there, but other parts of the contract that would
10 remain alive, post that date, would remain alive. 11:37

11 Q. I just want to be clear that I
12 understand.

13 A. Okay.

14 Q. Maybe I should have asked it as two
15 separate questions. Is it your understanding that 11:37
16 as a result of Exhibit 8 that Dr. Slusher is
17 waiving his right to be employed by HMC after
18 October 27th through February 28th of 2012?

19 A. Yes.

20 Q. Okay. Anything else that you contend 11:38
21 he's -- that you understand him to be waiving as a
22 result of signing Exhibit 8?

23 A. No.

24 Q. Now, paragraph 31 of the Complaint --

25 A. Okay. 11:38

11:38

11:38

11:39

MS. RHODE: Yeah.

11:39

11:39

11:39

11:39

11:40

11:40

11:41

Travel Diaries

EXHIB.

1 signed? 11:41

2 A. Oh, I imagine both.

3 Q. Can you specifically recall any
4 discussions of -- either from the time Ms. Rader
5 sent Exhibit 8 to Dr. Slusher for consideration 11:41

6 until the time he signed it -- as to a discussion
7 you may or may not have had with him regarding
8 only enough work for one orthopaedic surgeon?

9 A. I can't recall a specific discussion.
10 That was a general theme of discussions, though. 11:41

11 Q. Isn't it true that after Dr. Mosley was
12 hired that HMC continued to advertise for an
13 orthopaedic surgeon at -- strike that.

14 Isn't it true that after the time that
15 Dr. Mosley was hired or contracted with that HMC 11:41
16 continued to advertise for an orthopaedic surgeon?

17 A. No.

18 Q. It is not true?

19 A. Well, not true to my knowledge.

20 Q. Okay. 11:42

21 A. I guess I'll make a potential exception.

22 Q. Okay.

23 A. We may have been looking for a --
24 typically, again, with the Tullahoma physicians I
25 referred to earlier -- someone to help cover 11:42

1 weekends and a few heres and theres. 11:42

2 Q. Locums?

3 A. Right. But we were certainly not
4 advertising or not looking for, at least from my
5 office, additional coverage from an orthopod. 11:42

6 Q. Well, who has authority to advertise for
7 a physician on behalf of HMC -- or who had it at
8 the time that you were the CEO?

9 A. The corporate office has the recruitment
10 people that work there. I've mentioned Sarah 11:42
11 Smith's name a number of times. She's not in
12 charge of that department, but she works there.
13 So that department would be the ones that had the
14 authority to place advertisements.

15 Q. And when the corporate advertised, if 11:42
16 you know, where would they place such an
17 advertisement if they were seeking an orthopaedic
18 surgeon?

19 A. Oh, I -- I don't know.

20 Q. Okay. After Dr. Slusher returned, did 11:43
21 you tell him there just weren't job openings for
22 him, after he returned from his deployment?

23 A. No. In fact, I made him aware that we
24 could work within the company, with the larger
25 company. And I'm sure there were orthopod 11:43

1 positions out there. And we would assist him, if 11:43
2 we could, to find a position that was mutually a
3 good fit.

4 Q. And do you recall a specific discussion
5 or discussions of that nature? 11:43

6 A. I recall having discussions of that
7 nature. I also recall an email where -- I think
8 it was Rhea Garrett -- offered him the same offer.

9 Q. Do you know when that email was from
10 Mr. Garrett? 11:44

11 A. I don't.

12 Q. And when you had a discussion with
13 Dr. Slusher, was it one discussion or more?

14 A. It would have been several. It would
15 have been a theme. 11:44

16 Q. How did Dr. Slusher respond?

17 A. I'm just cleaning my mind up to make
18 sure I'm talking about after now. After he
19 returned?

20 Q. Yes. 11:44

21 A. I don't recollect his level of interest
22 in that. Before that time, I had made the same
23 offer. That's why I say that. He -- when he told
24 me earlier on that -- "we're doing a year's bridge
25 agreement with you, and I know you want to go back 11:44

1 to Pinehurst, but, you know, CHS has an option for 11:44
2 you, too. You ought to look around and see if you
3 have an interest."

4 Q. Do you know approximately how many
5 hospitals CHS owns or has an ownership interest 11:45
6 in?

7 A. Oh, I'd say when I was there, a hundred,
8 approximately.

9 Q. Would it be fair to say that it has them
10 in various geographic locations? 11:45

11 A. Right. All over the country. None in
12 Pinehurst.

13 MS. RHODE: Off the record for
14 a second.

15 (Whereupon, a discussion off the 11:46
16 record occurred.)

17 (Whereupon, Exhibit Number 20 was
18 marked for identification.)

19 BY MS. RHODE:

20 Q. Mr. Buckner, in this litigation, I 11:46
21 propounded a number of questions to you, and a
22 response to those was prepared. And I'm going to
23 hand you what I've marked as Exhibit 20 and ask
24 you if that looks familiar.

25 A. It does. 11:47

11:47

11:47

11:48

11:48

11:48

EXHIBIT A

EXHIBIT A

EXHIBIT A

EXHIBIT A

EXHIBIT A

EXHIBIT A

EXHIBIT A

1 discussions concerning not wanting to stay in 11:48
 2 Shelbyville that occurred after June -- after
 3 Dr. Slusher's June deployment in June of 2011?

4 MR. LONERGAN: So after he was
 5 deployed? 11:48

6 MS. RHODE: After he was
 7 deployed.

8 MR. LONERGAN: All right.
 9 Thank you.

10 THE WITNESS: Did I have any 11:49
 11 discussions with him about his desire to be in
 12 Shelbyville after his deployment? I don't believe
 13 so.

14 BY MS. RHODE:

15 Q. In the final sentence of your response 11:49
 16 to Interrogatory Number 4, you indicate that there
 17 was -- that you had a conversation with the
 18 plaintiff regarding early termination of
 19 plaintiff's employment agreement which was
 20 substantially coordinated via communications 11:49
 21 between plaintiff and Ms. Rader resulting --

22 MR. LONERGAN: Subsequently.

23 MS. RHODE: I'm sorry,
 24 subsequently. I'm sorry.

25 MR. LONERGAN: That's all 11:50

1 right. 11:50

2 BY MS. RHODE:

3 Q. -- subsequently coordinated via
4 communications between the plaintiff and Ms. Rader
5 resulting in the early termination agreement 11:50
6 executed by plaintiff and Heritage Medical Center.

7 We know the termination to be Exhibit 8.
8 What was the other -- you said you had another
9 conversation with Dr. Slusher regarding early
10 termination before it actually was reduced to 11:50
11 writing.

12 A. That's what it appears to mean, yes.

13 Q. What other conversation did you have
14 with Dr. Slusher and when?

15 A. I don't recall specifically. I may have 11:50
16 recalled that at the time. That was a year or so
17 ago.

18 Q. Okay. Is there anything that would
19 refresh your recollection as we sit here today as
20 to what other conversation you had with 11:50
21 Dr. Slusher before the termination agreement which
22 is Exhibit 8 was executed?

23 A. I can only make an assumption.

24 Q. And what would you assume?

25 A. The assumption that we discussed -- 11:51

1 yeah, we decided to do a 90-day, no-fault term. 11:51

2 Q. You decided that -- and I understand
3 this is an assumption, but your assumption is that
4 you might have had that discussion with
5 Dr. Slusher? 11:51

6 A. Correct.

7 Q. Before he was deployed.

8 A. Does it say before he was deployed? I'm
9 sorry.

10 Q. No. It says before the termination 11:51
11 agreement was executed. And it was executed after
12 he was deployed.

13 A. Okay.

14 Q. And I think you told me you didn't have
15 any actual discussions with him. While he was 11:51
16 deployed --

17 A. But this says -- this says it was
18 coordinated via Ms. Rader.

19 Q. Right.

20 A. So I guess by the words here I'm 11:51
21 reading, that yes, through Ms. Rader, I had this
22 discussion with him.

23 Q. Okay. You didn't specifically have a
24 discussion with him. You had it with her, and she
25 communicated it to him. Is that what you 11:51

1 understand?

11:51

2 **A.** That's what I understand, yes.

3 **Q.** Okay. And that's what you meant in this
4 answer?

5 **A.** I think so, yeah.

11:52

6 **Q.** Okay.

7 **A.** I think I was a little confused there
8 for a minute.

9 **Q.** No, no. That's fine. That's why we do
10 this, just to make sure.

11:52

11 If you will look at Number 6 --

12 **A.** Number 6 or page 6?

13 **Q.** Number 6, page 5.

14 **A.** Okay. Got it.

15 **Q.** In the second sentence -- I'm sorry. In
16 the second sentence it says, "Defendant Buckner
17 was not a party to the agreement." What agreement
18 were you not a party to that you're referencing
19 here?

11:52

20 **A.** Okay. Let me -- let me just read it
21 myself real quick.

11:52

22 **Q.** Take your time.

23 **A.** (Reviews document.) What this means to
24 me is that I was a member -- I was signing that
25 agreement as the CEO of the hospital but not

11:53

1 personally as Dan Buckner. 11:53

2 Q. Okay. But you will agree with me that
3 you signed the contract which is Exhibit 3,
4 correct?

5 A. Correct. 11:53

6 Q. And you signed the termination agreement
7 which is Exhibit 8?

8 A. I did.

9 Q. And what you meant by saying you weren't
10 a party to the agreement is that you weren't 11:53
11 individually -- it wasn't Dan Buckner --

12 A. Right.

13 Q. -- farmer, signing with Dr. Slusher --

14 A. Yeah. The agreement had no effect on me
15 personally. 11:54

16 Q. Okay. Got it.

17 A. I like that: Dan Buckner, farmer.

18 Q. That's what you said you do, right?

19 A. Amen. And I like it.

20 Q. Okay. Just checking. 11:54

21 Now I'll ask you to look at
22 Interrogatory Number 11 on page 7, please, sir.

23 A. Okay.

24 Q. Okay. Without getting specifically into
25 any discussions with you and Mr. Garrett, you 11:55

1 simply relied on whatever information or opinions 11:55

2 you were given in executing the documents we

3 talked about today that have your signature in

4 terms of the contract or in terms of the

5 termination. Is that fair? 11:55

6 A. I was reading. Would you say that
7 again?

8 Q. Oh, I'm sorry. Go ahead.

9 A. Let me finish reading. Then I'll listen
10 better. 11:55

11 Q. Just tell me when you're ready.

12 A. (Reviews document.) Okay. Ask again.

13 Q. When you executed the termination
14 agreement that is Exhibit 8, you simply relied on
15 whatever advice and information you received from 11:55
16 Mr. Garrett as legal counsel for the corporation
17 in doing so.

18 A. True.

19 Q. Let me direct your attention to
20 Number 13 on paragraph -- paragraph 13 on 11:56
21 Number 8.

22 A. Okay.

23 Q. And I asked about your role in the
24 decision of where to assign Dr. Slusher when he
25 returned after his USERRA leave in October of 11:56

1 2011. And initially, you discussed with 11:56
2 Dr. Slusher about providing orthopaedic services
3 in the emergency room?

4 A. That was a discussion, yes.

5 Q. Because he was only going to be there 11:56
6 for three weeks or four weeks or that sort of
7 thing; is that right?

8 A. Right.

9 Q. Okay. Was Dr. Slusher actually assigned
10 to the -- to provide orthopaedic services in the 11:56
11 ER or the ED, whatever they call it these days?

12 A. Not from this perspective, no.

13 Q. What do you mean "not from this
14 perspective"?

15 A. He wasn't -- he still took -- as an 11:57
16 orthopaedic surgeon, he took call and things like
17 that in the ER.

18 Q. Okay. But that wasn't going to be his
19 sole responsibility --

20 A. Correct. 11:57

21 Q. -- or a major component of his
22 responsibility.

23 A. No. It's just a regular -- as any
24 orthopaedic surgeon would have it.

25 Q. And you did in fact discuss with him 11:57

1 about working with Dr. Christopher Roane, an ER 11:57
2 doctor, to assist him in revising orthopaedic
3 protocols and policies to improve the ER
4 operation?

5 A. I recall having that discussion. He did 11:57
6 not -- that never happened, but we had the
7 conversation.

8 Q. Okay. And when you said in the last
9 line, "because Dr. Mosley had come on staff, there
10 was not a separate office location available for 11:57
11 the plaintiff," what did you mean by that?

12 A. Well, that's kind of a -- you know, not
13 a very good answer there. There was plenty office
14 space available. But the office that he was in
15 previously had now been taken up by Dr. Mosley. 11:58

16 Q. Okay. So his office space was no longer
17 available.

18 A. Right.

19 Q. Not that there was no office space.

20 A. Correct. 11:58

21 Q. Mr. Buckner, I've served notice to
22 Mr. Lonergan about certain questions I wanted
23 addressed, not knowing for sure who would be the
24 appropriate person. And you have been identified
25 as the appropriate person to address certain 12:00

1 issues. Are you aware of that?

12:00

2 A. I am.

3 Q. Okay. With respect to the first

4 question which reads, "All personnel matters

5 relating to the hiring duties, leave, and

12:00

6 termination of the plaintiff by and/or with HMC,"

7 are there other policies that you can direct me to

8 that would govern either Dr. Slusher's employment

9 with HMC and/or his -- let's start there -- with

10 his employment that were relative to the contract

12:00

11 or his rights under the contract?

12 A. When you say "other," you mean other

13 than discussed here?

14 Q. Yes. I'm sorry. Other than what we've

15 already discussed today, are there any other

12:00

16 policies that you think are relevant?

17 A. No.

18 Q. What about any specific policies

19 concerning termination of the contract? Is there

20 anything that you can direct me to that was in

12:01

21 play with respect to Dr. Slusher's employment at

22 HMC other than what we've talked about today?

23 A. No.

24 Q. With respect to Question Number 4 which

25 reads, "HMC's handling of and response to the

12:01

12:01

10 **A.** Yeah. 12:02

12:02

12:02

25 MR. LONERGAN: And I know that 12:02

1 you weren't, but we have a written objection. 12:02

2 MS. RHODE: No, no. That's
3 fine.

4 MR. LONERGAN: I just want to
5 make sure we noted it. 12:02

6 MS. RHODE: Yeah. And that's
7 fine.

8 BY MS. RHODE:

9 Q. So I just want to explain. I'm not
10 asking you about any discussions. I'm not asking 12:02
11 you what they specifically asked you to go look
12 at. I'm asking you once -- you read the
13 allegation, the Complaint, did you not?

14 A. I did.

15 Q. Is there anything that you said I'm 12:02
16 going to go do this or look at that or want to go
17 find out about something that you just went and
18 did?

19 A. No.

20 Q. Did you have any discussions other than 12:02
21 counsel, other than with counsel, about that
22 Complaint?

23 A. It's possible that I did.

24 Q. And who might you have had such
25 discussions with? 12:03

12:03

12:03

12:03

12:03

12:03

12:03

12:03

12:03

12:03

12:04

1 **A.** No.

12:04

2 **Q.** Do you understand that with respect to
3 Number 6, you've been identified as the individual
4 who can testify as to the search for and hiring of
5 orthopaedic physicians for HMC between June 2011
6 and December 2011, including but not limited to
7 orthopaedic physicians sought or hired as
8 replacements for plaintiffs?

12:04

9 **A.** I am aware.

10 **Q.** Okay. So other than what we've talked
11 about with respect to Dr. Mosley, is there
12 anything that you can tell me about HMC's search
13 for or hiring of orthopaedic physicians for HMC
14 between June of 2011 and December of 2011?

12:04

15 **A.** Only what we've already discussed
16 related to temporary locums kind of work from the
17 Tulahoma docs, et cetera.

12:05

18 **Q.** Okay. But nothing you and I haven't
19 already talked about today.

20 **A.** No.

12:05

21 **Q.** With respect to Number 9, do you
22 understand that you have been designated to
23 provide information about all negotiations by or
24 on behalf of HMC with plaintiff?

25 **A.** Yes.

12:05

1 MR. LONERGAN: Subject to a 12:05
2 previously noted objection --

3 MS. RHODE: Yes.

4 MR. LONERGAN: -- both on
5 terms of -- the vagueness of the term and the 12:05
6 protected, privileged conversations.

7 MS. RHODE: Okay.

8 BY MS. RHODE:

9 Q. Are there any other negotiations with
10 respect to Dr. Slusher when he was originally 12:05
11 hired by HMC that you were engaged in or can
12 testify to that we haven't already discussed
13 today?

14 A. No.

15 Q. And you didn't personally have any 12:06
16 negotiations with Dr. Slusher about the
17 termination agreement which is Exhibit 8 before it
18 was executed, correct?

19 A. I don't recollect -- I recollect that I
20 did not. 12:06

21 Q. Okay. But you did authorize Ms. Rader
22 to have negotiations with -- or to discuss it with
23 Dr. Slusher --

24 A. Right.

25 Q. -- on behalf of HMC? 12:06

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1 A. No. 12:09

2 Q. Do you have --

3 A. It would have been --

4 Q. I'm sorry.

5 A. It would not have been atypical for me 12:10

6 to have commented on if you're deployed, we've got

7 to figure out a way to cover you while you're

8 gone, you know, and talk about how we do locums or

9 something. So I probably would have had a

10 conversation like that. 12:10

11 Q. But you have no specific conversation?

12 A. No.

13 Q. Fair enough.

14 MS. RHODE: Can we take just a

15 couple of minutes? I think I'm done with 12:10

16 Mr. Buckner.

17 MR. LONERGAN: Okay.

18 (Recess observed.)

19 MS. RHODE: I'm done.

20 (Whereupon, Exhibit Number 21 was 12:16

21 marked for identification.)

22 CROSS-EXAMINATION

23 QUESTIONS BY MR. LONERGAN:

24 Q. Mr. Buckner, what's been marked as

25 Exhibit 21 is a document that's entitled Medical 12:17

1 Staff Development Department. Can you tell me 12:17
2 what that document is?

3 A. It looks like a pre-agreement sheet that
4 would be signed off by the up-line indicating the
5 terms of a future contract. 12:17

6 Q. And who is that contract with?

7 A. It's with Dr. Slusher.

8 Q. Okay. And what's the date on that?

9 A. That is 11/3/10.

10 Q. Okay. And the subsequent employment 12:17
11 agreement was dated February 2nd, 2012; is that
12 right?

13 A. I believe so.

14 Q. Or 2011, excuse me. Do you recognize
15 whose handwriting that is? 12:17

16 A. Offhand, I do not.

17 Q. Okay. The Sarah Smith that's at the
18 top, is that the person you referred to previously
19 today?

20 A. Yes. 12:17

21 Q. Okay. And under the comments section,
22 if you'd just read that into the record, please.

23 A. "Currently doing locums through
24 Weatherby at Shelbyville at \$3,500 a day.
25 One-year term to bridge the gap. Sourcing 12:17

1 additional candidates." 12:17

2 Q. And when you made the reference earlier
3 in your testimony this morning about a bridge
4 position, is that consistent with this one-year
5 term to bridge the gap? 12:18

6 A. Yes.

7 Q. Okay. What does sourcing additional
8 candidates mean to you?

9 A. Still looking for people to fill the
10 position full time. 12:18

11 Q. Okay. And does that reference the
12 conversation you had with Dr. Slusher?

13 A. Yes.

14 Q. And then off to the right, there's some
15 notes made there. Can you read that? 12:18

16 A. Up on the top of the page, off to the
17 right, it says, "Max per week \$3,000."

18 Q. Okay.

19 A. At the bottom of the page by the
20 Comments section it says, "Must include 90-day
21 out." 12:18

22 Q. And what do you understand that to mean?

23 A. Must include a 90-day, no-fault out
24 clause.

25 Q. Okay. 12:18

12:18

12:19

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1 locums contact.

12:20

2 Q. Do you remember Dr. Zelle?

3 A. Not specifically, no.

4 Q. Okay.

5 (Whereupon, Exhibit Number 23 was
6 marked for identification.)

12:20

7 BY MR. LONERGAN:

8 Q. What's been marked as Exhibit 23 is a
9 three-page document, and it's a reference to
10 Emmett Wayne Mosley. I would ask if you can
11 identify that document and tell me what it is.

12:20

12 A. This would come through the contract
13 recruiting section of the corporate office where
14 their computer keeps up with different potential
15 applicants.

12:21

16 Q. Okay. Earlier in your testimony this
17 morning you mentioned a specific reference to a
18 conversation with Dr. Mosley on April 4th, 2011;
19 is that right?

20 A. April 7th?

12:21

21 Q. April 7th?

22 A. Yeah.

23 Q. And you made reference to a record. Can
24 you find a reference to that conversation in this
25 document?

12:21

1 **A.** On the second page. 12:21

2 **Q.** Okay.

3 **A.** 4/7/2011, 3:45:17 p.m. "This candidate
4 called the CEO in Shelbyville directly."

5 **Q.** Okay. Is that the conversation you 12:21
6 testified about earlier today?

7 **A.** It is. Yeah.

8 **Q.** Up on -- above that, there's an entry
9 from December 20th, 2012. I'm just going to read
10 the first sentence. "Dr. Mosley called me about 12:22
11 his situation. He is currently at our hospital in
12 Shelbyville, Tennessee, and he doesn't think he's
13 viable, not enough to do."

14 Do you recall any discussions with
15 Dr. Mosley about whether or not he thought there 12:22
16 was enough to do for an orthopaedic surgeon?

17 **A.** He never specifically had that
18 conversation with me.

19 **Q.** Okay. Who is Joanne Anderson?

20 **A.** That would be someone in Sarah Smith's 12:22
21 department.

22 **Q.** Okay. You mentioned earlier in your
23 testimony that you felt your community could only
24 support one full-time orthopaedic surgeon at HMC;
25 is that correct? 12:22

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1 would be coming to him prior to his deployment? 12:24

2 MS. RHODE: Dr. Mosley?

3 MR. LONERGAN: Excuse me.

4 Dr. Slusher. Thank you.

5 BY MR. LONERGAN: 12:24

6 Q. Let me rephrase that. Do you recall
7 advising Dr. Slusher that he would be receiving
8 the 90-day notice or termination agreement before
9 he left for deployment?

10 A. Yes. I told Dr. Slusher upon 12:24
11 negotiating that contract. That's why we're
12 putting it in there.

13 Q. Okay. But specifically, as it relates
14 to Dr. Mosley's recruitment agreement?

15 A. I can assume that I did. 12:24

16 (Whereupon, Exhibit Number 24 was
17 marked for identification.)

18 BY MR. LONERGAN:

19 Q. Do you recognize what's been marked as
20 Exhibit 24? 12:25

21 A. Yes.

22 Q. Okay. And can you tell me what that
23 document is?

24 A. This would be a document that was used
25 for conversation in the negotiation process about 12:25

1 what we were going to change or modify from the 12:25
2 standard agreement.

3 Q. And who was this for?

4 A. This would be for myself, for Sarah
5 Smith, mainly, as we drew up a new contract. 12:25

6 Q. Okay. And who did it relate to? Whose
7 contract?

8 A. Slusher, it looks like.

9 Q. And what's the doctor's name right there
10 (indicating)? 12:26

11 A. Oh, I'm sorry. Dr. Mosley, yes.

12 Q. Wayne Mosley?

13 A. Correct.

14 Q. And these are concerns that, it's your
15 understanding, he had expressed the reason why the 12:26
16 contract was being negotiated?

17 A. Correct.

18 Q. And what was -- Exhibit 19 is a
19 three-year contract?

20 A. Yes, with an 18-month guarantee. 12:26

21 Q. What did the 18-month guarantee cash
22 collection -- what did that mean?

23 A. That means that he could withdraw money
24 from the base of his cash collections guarantee
25 for up to 18 months. 12:26

1 Q. And what would be his compensation after 12:26
2 that 18 months? Or how would he be --

3 A. It would be up to a total of \$950,000.

4 Q. So the 18-month guarantee was a monetary
5 guarantee to him pulled from the patient 12:26
6 collections.

7 A. Correct.

8 Q. And after that, he was compensated
9 without a guaranteed specific amount each month?

10 A. After that was burned, so to speak, he 12:27
11 would be on his own, and whatever he generated in
12 patient volume, he would get. That number
13 included money that he would have to pay for
14 overhead. It wasn't just salary.

15 Q. Okay. Did you ever have any 12:27
16 communications with Dr. Slusher while he was on
17 deployment -- and related to Exhibit 8. Okay?

18 A. Okay.

19 Q. Did you ever have any communications
20 from him or via Ms. Rader that he was not able to 12:28
21 contact counsel to have the agreement reviewed?

22 A. That he was not able to?

23 Q. Right.

24 A. No.

25 Q. Okay. And you sat in on Dr. Slusher's 12:28

1 deposition a few weeks ago, correct? 12:28

2 A. Correct.

3 Q. And you recall him testifying that he

4 had communicated via email that he would have

5 counsel review the email, that he would have 12:29

6 counsel review the agreement?

7 A. Right.

8 Q. Did you ever have any communications

9 with or did Ms. Rader relate to you that

10 Dr. Slusher told her that he was unable to reach 12:29

11 counsel to have the agreement reviewed?

12 A. No.

13 Q. Did you have any communications from

14 Dr. Slusher or via Ms. Rader that he had

15 communicated to her that he didn't understand or 12:29

16 wanted to negotiate changes to the termination

17 agreement?

18 A. No. Well, I need to correct that.

19 Q. Okay.

20 A. I had that -- after he signed the 12:29

21 termination agreement --

22 Q. Okay. That's not --

23 A. Okay.

24 Q. -- my question.

25 A. Okay. Got you. 12:29

1 Q. Prior to his execution and your receipt 12:29
2 of that document.

3 A. No, not prior to.

4 Q. After that, you got a letter from the
5 attorney, right? 12:30

6 A. Correct. Yeah.

7 Q. When Dr. Slusher returned to work at the
8 hospital, following his deployment and prior to
9 the early termination agreement, was he paid the
10 same compensation benefits that he had received 12:30
11 previously?

12 A. Yes.

13 Q. And is it your recollection that he was
14 performing largely the same type of work that he
15 had performed prior to deployment? 12:31

16 A. Yes.

17 Q. And the number of patients he saw or the
18 number of surgeries he'd performed would not have
19 impacted his compensation, correct?

20 A. No. 12:31

21 Q. Exhibit 5, Military Leave policy --

22 A. Yes, sir.

23 Q. -- it says -- there's a section on
24 Compensation During Uniformed Services Leave. Do
25 you know if physicians who went on military leave 12:32

1 were compensated under the hospital policies? 12:32

2 A. They were not.

3 Q. Okay. But the regular hospital
4 employees would receive some form of pay; is that
5 correct? 12:32

6 A. Yes.

7 Q. Exhibit 17, which is the minutes from
8 the October 20th, 2011 meeting, the reference down
9 there, "Mr. Buckner stated there is not enough
10 orthopaedic business for both Dr. Slusher and 12:35
11 Dr. Mosley, and this is strictly an affordability
12 issue for the hospital," is that anything
13 different than you had told Dr. Slusher back prior
14 to his deployment in terms of the search for one
15 full-time orthopaedic surgeon? 12:35

16 A. No. Same gist.

17 Q. In terms of processing a request for
18 military leave while you were CEO at Heritage
19 Medical Center, if you were advised someone was
20 seeking military leave, how did you handle that? 12:35

21 A. I typically would work with my human
22 resource director to determine the route to
23 follow.

24 Q. Okay. And who was that at the time?

25 A. Rob Thorne. 12:35

12:36

12:37

12:37

12:38

25 //

1 REDIRECT EXAMINATION

12:38

2 QUESTIONS BY MS. RHODE:

3 Q. With respect to Exhibit Number 19, when
4 you said -- talked about your discussions, you
5 said you assumed you would have advised
6 Dr. Slusher. You don't have any specific
7 recollection about any actual discussions about
8 giving him a 90-day notice once you had signed
9 with Dr. Mosley, do you?

12:38

10 A. Not specifically about having signed
11 with Dr. Mosley.

12:39

12 Q. And once you had signed with Dr. Mosley,
13 you had a commencement date in place?

14 A. Once we had signed the contract
15 agreement, yes.

12:39

16 Q. Okay. So you knew that there would be a
17 full-time physician as of August of 2011 with
18 Dr. Mosley coming on board, correct?

19 A. Correct.

20 Q. And there was nothing that would prevent
21 you, then, from giving Dr. Slusher his 90-day
22 notice so that you wouldn't have had any
23 obligation to reemployment after he had returned
24 if you had given him the 90-day notice at the time
25 you signed Dr. Mosley, correct?

12:39

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Travel Data

EXHIBIT

1 prevented you from doing that if you had chosen to 12:40
2 do so, correct?

3 A. Correct.

4 Q. And with respect to conversations with
5 Dr. Slusher and speaking with his legal counsel 12:41
6 about the termination agreement, he never
7 specifically told you that he had actually gotten
8 to speak with his attorney, did he?

9 A. No.

10 Q. And Ms. Rader never told you that 12:41
11 Dr. Slusher said, "Yes, I have gotten to talk with
12 my legal counsel before I signed this agreement,"
13 did he?

14 A. Well, can I answer that with a sentence?

15 Q. Sure. 12:41

16 A. Okay. I read emails back and forth
17 between Rader and Slusher where he said, "I'm
18 sending this to my attorney."

19 Q. Did you -- go ahead. I'm sorry.

20 A. And then he emailed it back without 12:41
21 saying that he had not discussed it, so the
22 assumption -- my assumption was that he certainly
23 had or he would have said so.

24 Q. Irrespective of the assumption, was
25 there ever a specific comment that you saw in an 12:42

1 email to Ms. Rader, or that she communicated to 12:42
2 you otherwise, that he specifically said, "I have
3 in fact gotten an opportunity and consulted with
4 my attorney before I signed this agreement"?

5 A. I don't believe so. 12:42

6 Q. Now, you told Mr. Lonergan that
7 physicians who go on military leave, are deployed
8 on military leave, are not compensated; is that
9 correct?

10 A. Correct. 12:42

11 Q. Can you point to anything in the policy,
12 the military leave policy, which is Exhibit 5,
13 that says it does not apply to physicians who are
14 employed by HMC?

15 A. No, I can't. 12:42

16 Q. With respect to the note from the
17 medical executive committee on October 20th, 2011,
18 which is Exhibit 17 --

19 A. Okay.

20 Q. -- can you tell me if any of the other 12:43
21 individuals present on that day made any comment
22 to your contractual update concerning Dr. Slusher?

23 A. No, I can't.

24 Q. Do you recall, was there any discussion?

25 A. I don't recollect. 12:43

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EXHIBIT A

EXHIBIT A

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EXHIBIT A

EXHIBIT A

EXHIBIT A

EXHIBIT A

EXHIBIT A

1 Sarah Smith was simply that Dr. Mosley had called 12:45
2 you, directly entering a phone number for him.
3 That's all the comment reflects.

4 A. Right.

5 Q. Okay. Was there anything else to that 12:45
6 conversation that you recall other than he gave
7 you a phone number?

8 A. Oh, I think this is her saying she's
9 entering a phone number for him at their database.

10 Q. Okay. 12:45

11 A. But that she's just noting that he had
12 called me to ask about the position or to have
13 discussions about it.

14 Q. Okay. But it doesn't make -- the entry
15 on page 2 of Exhibit 23 doesn't say anything about 12:45
16 what specifically was discussed with you, correct?

17 A. Right.

18 Q. And do you have any notes about that
19 discussion on April 7th, 2011?

20 A. No, I don't. 12:45

21 Q. With respect to Exhibit 22, the
22 locums --

23 A. Okay. Got it.

24 Q. -- Dr. Kerr was the locum from May 31st,
25 2011, through June 29th, 2011, correct? 12:46

1 A. Yes.

12:46

2 Q. Part of the time he was locums was when
3 Slusher was there and after he was initially
4 deployed.

5 A. Correct.

12:46

6 Q. And subsequent to Dr. Kerr, Dr. Zelle
7 provided locum services from July 22nd to
8 August 12, correct?

9 A. Yes.

10 Q. And there is no locum listed between
11 August 12 -- after August 12th and before
12 Dr. Slusher returned on October 3rd, 2011?

12:46

13 A. Not that I see.

14 Q. Okay.

15 MS. RHODE: Nothing further.

12:46

16 Thank you. I'm done.

17 MR. LONERGAN: We're good.

18

19 FURTHER DEPONENT SAITH NOT.

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1 E R R A T A

12:46

2

3 I, DANIEL ANDREW BUCKNER, having read the
4 foregoing deposition, Pages 1 through 148, taken
5 March 24, 2014, do hereby certify said testimony
is a true and accurate transcript, with the
following changes, if any:

12:46

6 PAGE LINE SHOULD HAVE BEEN

7 _____

8 _____

9 _____

10 _____

12:46

11 _____

12 _____

13 _____

14 _____

15 _____

12:46

16 _____

17

18 _____

19 DANIEL ANDREW BUCKNER

20

12:46

21

22 _____
Notary Public

23 My commission expires: _____

24

25

1 REPORTER'S CERTIFICATE

12:46

2

3 STATE OF TENNESSEE)

4 COUNTY OF WILLIAMSON)

5

12:46

6 I, Cassandra M. Beiling, CCR,

7 LCR #371, Notary Public and Court Reporter, do

8 hereby certify that I recorded to the best of my

9 skill and ability by machine shorthand all the

10 proceedings in the foregoing transcript, and that

12:46

11 said transcript is a true, accurate, and complete

12 transcript to the best of my ability.

13 I further certify that I am not an

14 attorney or counsel of any of the parties, nor a

15 relative or employee of any attorney or counsel

12:46

16 connected with the action, nor financially

17 interested in the action.

18 SIGNED this 7th day of April, 2014.

19

20

12:46

21

22 _____
Cassandra M. Beiling, CCR, LCR# 371

23

24 My commission expires: 3/12/2016.

25